

TO BE ASSISTANT TO THE CHIEF OF THE AIR CORPS, WITH THE RANK OF BRIGADIER GENERAL, FOR A PERIOD OF 4 YEARS FROM DATE OF ACCEPTANCE, WITH RANK FROM JANUARY 31, 1939

Col. George Howard Brett, Air Corps, vice Brig. Gen. Augustine W. Robins, Assistant to the Chief of the Air Corps, whose term of office expired January 30, 1939.

APPOINTMENTS TO TEMPORARY RANK IN THE AIR CORPS IN THE REGULAR ARMY

TO BE COMMANDING GENERAL, GENERAL HEADQUARTERS AIR FORCE, WITH THE RANK OF MAJOR GENERAL, WITH RANK FROM MARCH 1, 1939

Brig. Gen. Delos Carleton Emmons, wing commander (colonel), Air Corps, vice Maj. Gen. Frank M. Andrews, commanding general, General Headquarters Air Force, whose term of office expires February 28, 1939.

TO BE MAJOR

Capt. Donald Reuben Goodrich, Air Corps, from February 1, 1939.

PROMOTIONS IN THE NAVY

The following-named lieutenants to be lieutenant commanders in the Navy, to rank from the date stated opposite their names:

Homer B. Hudson, October 1, 1938.

David L. Nutter, January 1, 1939.

Harry A. Dunn, Jr., January 1, 1939.

John H. Brady, January 12, 1939.

Henry F. Agnew, January 20, 1939.

John K. B. Ginder, February 1, 1939.

Rodger W. Simpson, February 1, 1939.

Lt. (Jr. Gr.) Henry Mullins, Jr., to be a lieutenant in the Navy, to rank from the 1st day of February, 1939.

The following-named ensigns to be lieutenants (junior grade) in the Navy, to rank from the date stated opposite their names:

Francis D. Walker, Jr., June 6, 1938.

Clark A. Hood, Jr., June 6, 1938.

Russell Kefauver, August 29, 1938.

Medical Director Charles M. Oman to be a medical director in the Navy, with the rank of rear admiral, to rank from the 1st day of July, 1936.

The following-named surgeons to be medical inspectors in the Navy, with the rank of commander, to rank from the 23d day of June, 1938:

Franklyn C. Hill

Cyrus C. Brown

Victor B. Riden

Edward J. Goodbody

Passed Assistant Paymaster Ralph J. Arnold to be a paymaster in the Navy, with the rank of lieutenant commander, to rank from the 23d day of June, 1938.

The following-named chaplains to be chaplains in the Navy, with the rank of commander, to rank from the 23d day of June, 1938.

Clinton A. Neyman

William P. Williams

Pharmacist Archie B. Brown to be a chief pharmacist in the Navy, to rank with but after ensign, from the 25th day of November, 1938.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 9, 1939

UNITED STATES HOUSING AUTHORITY

Jacob Crane to be Assistant Administrator and Director of Project Planning, United States Housing Authority.

UNITED STATES DISTRICT JUDGE

Michael L. Igoe to be United States district judge for the northern district of Illinois.

UNITED STATES ATTORNEY

William J. Campbell to be United States attorney for the northern district of Illinois.

POSTMASTERS

OHIO

Starling N. Caron, Hamersville.

Charles E. Morris, Philo.

PUERTO RICO

Ricardo Pagan, Barranquitas.

Felix P. Hernandez, Quebradillas.

HOUSE OF REPRESENTATIVES

THURSDAY, FEBRUARY 9, 1939

The House met at 11 o'clock a. m.

Rev. Edwin Holt Hughes, D. D., LL. D., senior bishop of the Methodist Episcopal Church, Washington, D. C., offered the following prayer:

Almighty God, our Father: When long ago Thou didst reveal Thy will to Thy people through the greatest of human lawgivers, we were told of "the land which the Lord, our God," gave to us. We are glad to believe that this ancient word is true for our country. We would more and more treat it as Thy divine gift. Thou didst lift its mountains. Thou didst extend its prairies. Its surrounding seas are Thine, for Thou hast made them; "and Thy hands formed the dry land." When we think of the wonder of the territory which Thou hast made for us and given to us, we are disposed to praise Thee and to cry out, "For ourselves, and our country, O gracious God, we thank Thee."

In due season of Thy providence Thou didst give us a separate place among the nations. Thou dost now command us to give back to Thee the land of Thine own giving, consecrated to Thine own holy purposes. Grant Thy mercy and grace to all our citizens. Give Thy benediction and guidance to all our lawmakers that they may fulfill Thy law. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of yesterday was read and approved.

KATHRYN T. MAIER

Mr. WARREN. Mr. Speaker, I offer a privileged resolution from the Committee on Accounts and ask for its immediate consideration.

The Clerk read as follows:

House Resolution 87

Resolved, That there shall be paid out of the contingent fund of the House to Kathryn T. Maier, widow of John G. Maier, late an employee of the House, an amount equal to 6 months' salary compensation, and an additional amount not to exceed \$250, to defray funeral expenses of the said John G. Maier.

The resolution was agreed to, and a motion to reconsider was laid on the table.

INVESTIGATION OF UN-AMERICAN PROPAGANDA IN THE UNITED STATES

Mr. WARREN. Mr. Speaker, I offer a further privileged resolution from the Committee on Accounts and ask for its immediate consideration.

The Clerk read as follows:

House Resolution 81

"Resolved, That the expenses of conducting the investigation authorized by House Resolution 26, incurred by the special committee appointed to investigate un-American propaganda in the United States and related questions, acting as a whole or by subcommittee, not to exceed \$150,000, including expenditures for the employment of experts, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman thereof and approved by the Committee on Accounts; that the official committee reporters may be used at all hearings held in the District of Columbia if not otherwise officially engaged."

The Committee on Accounts having given consideration to the above resolution recommends that the original do not pass, but that the substitute, as follows, do pass:

"Resolved, That the expenses of conducting the investigation authorized by House Resolution 26, incurred by the special committee appointed to investigate un-American propaganda in the United States and related questions, acting as a whole or by subcommittee, not to exceed \$100,000, including expenditures for the employment of experts, and clerical, stenographic, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman thereof and approved by the Committee on Accounts, and the amount herein appropriated is to cover all expenditures of said committee of every nature in completion of its investigation and filing its report not later than January 3, 1940.

"Sec. 2. That the official committee reporters may be used at all hearings held in the District of Columbia if not otherwise officially engaged.

"Sec. 3. The head of each executive department is hereby requested to detail to said special committee such number of legal and expert assistants and investigators as said committee may from time to time deem necessary."

Mr. WARREN. Mr. Speaker, after I conclude my brief statement about this matter I propose to yield 2 or 3 minutes to the minority leader, the gentleman from Massachusetts [Mr. MARTIN]. After this I propose to move the previous question.

We have a very important bill, the consideration of which must be completed today, brought out by the Ways and Means Committee, and in order to aid the minority in their out-of-town engagements over the week end, this bill has been brought in today. For this reason we are greatly pressed for time.

Mr. Speaker, now that we are in a calmer moment, it is not amiss for me to discuss some phases of this special committee, both pro and con. The resolution carries the largest single amount that has ever been brought out by me during the last 8 years to be paid from the contingent fund of the House. Frankness compels me to say that had not the original resolution been amended to terminate this investigation within the period of a year I would not have supported it, and I believe this view is concurred in by many others in this body. I have always opposed, and consistently so, the setting up of these perpetual investigations by the House of Representatives. We report out here today a substitute which has the unanimous approval of every member of the Committee on Accounts, all members being present at the meeting except one. It also has the approval of the three members of the special committee who appeared before the Accounts Committee, to wit, Mr. DIES, Mr. STARNES of Alabama, and Mr. DEMPSEY.

We have reiterated in section 1 of the resolution what the House has already expressed by a very large vote, and that is that the amount herein appropriated is to cover all expenditures of said committee of every nature in completion of its investigation and filing its report not later than January 3, 1940.

The Committee on Accounts has seen fit to add another section which was contained in the resolution passed last year, and that is we again call upon the head of each executive department to detail to the special committee such number of legal and expert assistants and investigators as said committee may from time to time deem necessary.

There is no use for us to quibble over this. The chairman of this select committee respectfully and in accordance with the terms of the former resolution requested aid from department heads. For some reason that aid was declined and was not given, although it is a well-known fact that various departments of the Government have assigned from time to time such assistance and one instance of it is on record in the hearings on the independent offices bill, the consideration of which was just completed last night. The departments have assigned special counsel or special investigators to various select committees set up by either body.

Now, I have some pride in the authority and the greatness of the House of Representatives, and I want to serve notice, and I believe this is in accord with the feeling of the House of Representatives, that when we pass a resolution, although it does not have the binding effect of law, when we call upon a department to lend aid to any committee that we set up, we expect the request to be observed and obeyed as far as possible or good reason to be ascribed why it is not obeyed. [Applause.]

This is the third investigation of this nature that has been authorized by the House of Representatives during my service here. Shortly after I came here we had the committee headed by the gentleman from New York [Mr. FISH]. What was accomplished? Absolutely nothing. Then followed the committee headed by my distinguished friend from Massachusetts [Mr. McCORMACK]. That committee almost got somewhere. They did what the House instructed them to do. They made a final report and recommended legislation.

They recommended the passage of five bills to cure the evils that they had investigated. Those bills were duly considered by the appropriate committees of the House and were reported favorably to the House. One of those bills was enacted into law, and the other four measures, by obstruction, by dilatory tactics, and by refusal to have them considered, are now embalmed in the archives of useless papers. How surprised we would be, how astounded we would be, if somehow, somewhere, sometime, some of these investigating committees that are set up would come back here with a report and have their recommendations enacted into the law of the land. That just does not happen. In only the most isolated cases has it ever happened.

Mr. McCORMACK. Mr. Speaker, will the gentleman yield?

Mr. WARREN. Yes.

Mr. McCORMACK. I might also say that the bill the gentleman refers to is the Registration Act, that became a law last year, compelling all persons in the employ, directly or indirectly, of any foreign government, any foreign political body, any foreign agency of any kind, corporate, partnership, individual, set up for propaganda purposes in the United States, to register with the Secretary of State. It is the first bill that any Congress has enacted, which enables the Department of Justice to make any investigation, and as a result of the passage of that law, the Department of Justice is now investigating the important evidence referred to by the Dies committee, and it took 4 years for that bill to pass.

Mr. WARREN. And the gentleman will, of course, admit that he was blocked in getting up the other four bills.

Mr. McCORMACK. The fact is that the other four bills are not still up. I shall not use the word "blocked." The fact is those bills are not here; they have not passed. One of them was a bill making it a crime for anyone knowingly or willfully to advocate the overthrow of our Government by force and violence, and I can never see why anyone could oppose the passage of that bill.

Mr. WARREN. Nor could I. This committee is in a little more fortunate position. The chairman of this special committee is a member of the Committee on Rules. Another member, my friend the gentleman from New Mexico [Mr. DEMPSEY], is likewise a member of the Committee on Rules, and I beg this special committee now not to let a whole year go by. They have the power. Certainly they have found something from their investigations of 7 months to bring in here to this House. But I beg them not to let a year go by without the House at least having an opportunity to consider some corrective legislation that they might suggest.

I know that perhaps any advice from me to this committee might be considered gratuitous and not wanted. I entertain for the membership of the special committee both high regard and personal friendship. I quote from a letter written by the chairman of the committee:

Of course, some of the testimony must be discounted, due to bias, the natural tendency to exaggerate when dealing with this subject, and other factors; but after making due allowance for all these factors, the fact remains that the situation is sufficiently serious to justify a thorough and fearless investigation which will accord to all sides a full opportunity to be heard, to the end that the truth with regard to all un-American activities and propaganda may be ascertained once and for all.

The special committee has an opportunity to render a distinct and outstanding public service. If it will hew to the line; if it will march straight ahead; if it will turn neither to the right nor to the left; if it will not listen to the blandishments of any group or succumb to the itch of publicity, and will go forward and ferret out the facts and recommend legislation that will be effective, then they will receive the thanks and plaudits of the American people.

But, on the other hand, if this committee is to ride over the land looking under every pillar and post for those with whose views they might not agree, if constitutional rights of citizens are to be trampled or invaded, if they have any idea of conducting an inquisition, then they will probably be condemned and their works and labors will prove ineffectual. [Applause.]

Mr. SABATH. Mr. Speaker, will the gentleman yield?

Mr. WARREN. For a question.

Mr. SABATH. Will the gentleman yield me 3 minutes? I am not opposed to the resolution. All I desire is 3 minutes, in view of the fact that the action of the committee has been called to the attention of the House. As chairman of the Committee on Rules, I desire to make a brief statement, and also due to the fact that I supported the resolution.

Mr. WARREN. How much time does the gentleman from Massachusetts desire?

Mr. MARTIN of Massachusetts. Not much. First, I wish to ask a question before I take the floor.

Mr. WARREN. Certainly.

Mr. MARTIN of Massachusetts. I notice in the first paragraph that the amount to be given to the committee is \$100,000. Does the gentleman consider that adequate for a real investigation?

Mr. WARREN. I certainly do. Frankly, it is a somewhat higher amount than I personally favored. I want to say that Mr. DIES, Mr. STARNES of Alabama, and Mr. DEMPSEY stated that in their opinion it would be adequate. Therefore we have given them that amount so that there will be no future alibis. That is the reason I am supporting an amount that large.

Mr. MARTIN of Massachusetts. As to section 3, it was in the last resolution which was passed last year; but, as I understand it, the departments did not comply, as the gentleman from North Carolina has well stated and did not provide any assistance to the committee.

Mr. WARREN. That is correct.

Mr. MARTIN of Massachusetts. The chairman of the committee in introducing this resolution this year left out that proviso, and the Committee on Accounts have seen fit to reinsert it. Can that be taken to mean that that is any effort to sabotage this committee in its work? As I understand the evidence that has been presented before the committee, it is to the effect that there is more or less communism in some of the departments of Government. If that be true, should those departments of Government be asked to provide assistants for an investigation which might go into their own department?

Mr. WARREN. I do not think the gentleman from Massachusetts even thinks there is any attempt to sabotage this committee.

Mr. MARTIN of Massachusetts. I do not think so, but I want to give the gentleman from North Carolina an opportunity to explain it.

Mr. WARREN. I will tell the gentleman. I suggested that that be put in there. I assure the gentleman I have not been in communication with nor consulted any department. It is simply permissive for the special committee to call upon them. But I say this, and I know the gentleman will agree with this, as I have just said, that if this committee does call on them, that department ought to respond, because the request comes from the House of Representatives.

Mr. MARTIN of Massachusetts. I agree thoroughly with the statement of the gentleman from North Carolina. I also appreciate that if there had been more cooperation in the past it would have saved a great deal of money for the people of the country. But, as it now reads, the chairman is not compelled to ask for assistance from a department that he may want to investigate.

Mr. WARREN. Not at all.

Now, Mr. Speaker, I shall yield 5 minutes to the gentleman from Massachusetts [Mr. MARTIN] and then I shall yield 3 minutes to the gentleman from Illinois [Mr. SABATH]. After that I shall move the previous question. [Applause.]

Mr. MARTIN of Massachusetts. Mr. Speaker, first I must remind the House if no legislation has emanated from previous committees, certainly it cannot be charged to the Republican membership of either branch of the Congress. For the last 5 years, the Congress has been overwhelmingly Democratic, and if proper legislation has not been brought to the floor, that responsibility, of course, rests upon those who control the House or the Senate.

The Republican membership of the House is 100 percent back of this resolution to provide adequate funds for the Dies investigation. We showed that in our vote the other day when we expressed ourselves unanimously that this investigation should go on. We may say no legislation has emanated from past committees, but I honestly believe every one of those committees has accomplished some good. It is not always necessary to have legislation for a committee to justify itself. If we can arouse the conscience of the American people to the abuses that are going on in the country, then that money is well spent. [Applause.] We are spending billions of dollars in this country for defense against any foreign government which might attack America. If we can spend billions for armament it is not unwise to give \$100,000 to protect the American people from forces that are trying to undermine America at home. America, if it is ever destroyed will be from forces undermining it at home rather than from an attack from abroad. [Applause.]

The Republican membership of this House is for this investigation. Our hope is the committee will continue, as I believe it has in the past, for a fearless, honest, and impartial investigation. If there is communism in any of the departments, that fact should be revealed. If there are groups of people trying to destroy the America of today they should be exposed. The American people are demanding the real facts and the gentleman from Texas and his committee have been given an opportunity, rare indeed, to render great service to this country. I sincerely hope they will not fail.

I am glad to here record the support of the Republican membership of the House and I trust this resolution will be unanimously adopted. [Applause.]

Mr. WARREN. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. SABATH].

Mr. SABATH. Lest there be any misunderstanding, let me make it clear that I supported and voted for resolutions creating the McCormack committee and the original resolution setting up the Dies committee. However, thousands of individuals, organizations, patriotic and other groups feel, and I concur in that feeling, that the Dies committee has permitted itself to become an instrument of those who fight the administration, and of Fascist and Nazi groups which seek to divert attention from their own subversive activities.

Mr. DIES has admitted that mistakes were made in the past and now assures the Rules Committee, the Accounts Committee, and the House that he will avoid such mistakes in the future. Therefore I support this resolution authorizing \$100,000 to renew the committee's work. In fact, I would gladly say that \$500,000, if need be, should be given a committee to really inquire into subversive activities.

I know that it costs money to carry on Nation-wide investigations, and I know that support cannot be had from governmental agencies. To correct a mistaken impression given the general public that the departments refused to help the Dies committee, I want it known that the House during the last Congress passed an amendment prohibiting the departments from loaning employees to congressional committees. Older members, some of whom now criticize the departments for not giving assistance, should remember that I was one of the very few who fought in the Well of this House to defeat the amendment prohibiting departments from giving help to our select committee.

Let the House be sure of one thing, Mr. Speaker, and that is that there will be no delay by the Rules Committee in reporting out any proposed legislation to deal with un-American activities. I have been personally disposed toward legislation proposed by Mr. McCormack and regret that no favorable action has been taken to date. Unfortunately, the other side objected to consideration of these bills.

I hope that the Dies committee, with the renewed life and additional funds granted it, will go out and do a real job in exposing un-American activities. And by un-American activities I mean the acts of the Nazis, the Fascists, the Silver Shirts, and all the other subversive groups, and not only the Communists. I despise them all with equal intensity.

Another thing I hope is that the committee will not permit irresponsible and designing individuals to brand all liberals and progressives as Communists. There are those who for political or other reasons have assailed members of the Cabinet and even the President of the United States and by implication branded them as un-American. I resent this and will fight such tactics with every resource at my command.

With the naming of the capable and conscientious gentleman from California as the new member of the committee I know that the committee is strengthened materially, and I trust that the criticism voiced by thousands of Americans during the past year will have no reason to be heard in the future. [Applause.]

Mr. WARREN. Mr. Speaker, I move the previous question on the resolution and the substitute amendment to final passage.

The previous question was ordered.

The substitute amendment was agreed to.

The resolution as amended was agreed to, and a motion to reconsider was laid on the table.

ADJOURNMENT OVER

Mr. RAYBURN. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

Mr. WOLCOTT. Mr. Speaker, reserving the right to object, we have a very important bill coming up today. I do not know how much time is going to be allotted for its consideration.

Mr. RAYBURN. We have already agreed on 3 hours' general debate, I may say to the gentleman, by unanimous consent.

Mr. WOLCOTT. Although I will not object to adjourning over until Monday, I call attention to the fact that as discussion on this bill proceeds today I am not so sure that this Congress will not be subjected to severe criticism in not taking up not only all of today, but all of tomorrow and all of Saturday in the consideration of this very fundamental question, one which has been before the country for 150 years.

Mr. RAYBURN. I may say to the gentleman that I very reluctantly agreed to the suggestion of the gentleman from Massachusetts [Mr. MARTIN] and many Members on that side of the aisle, not to have a session tomorrow and Saturday. But because I wanted to accommodate Members on that side of the House, about 35 of whom said they desire to get away for the celebration of Lincoln's Birthday, I have, at the instance of the gentleman from Massachusetts, submitted the request.

Mr. WOLCOTT. It is my opinion that we can better revere the memory of the second greatest American by staying on this floor and discussing this fundamental question of States' rights than we can by making speeches elsewhere in his memory.

Mr. RAYBURN. It is a foregone conclusion that Members cannot stay on the floor and at the same time make Lincoln Day speeches elsewhere.

Mr. WOLCOTT. I believe the gentlemen should stay here and make Lincoln Day speeches in defense of our dual democracy.

Mr. RAYBURN. We have plenty of time, and it is our intention to take plenty of time for debate today, to stay in session until this bill is passed.

Mr. MARTIN of Massachusetts. Mr. Speaker, reserving the right to object, I want to say in behalf of the majority leader that having the bill called up and passed today, was at the request of a good many Members of the minority side of the House. The committee had thought that 3 hours' debate would be ample; and I believe before we get through it will be seen that 3 hours is sufficient for everybody who so wishes to express himself.

Mr. WOLCOTT. Mr. Speaker, will the gentleman yield?

Mr. MARTIN of Massachusetts. Certainly.

Mr. WOLCOTT. I may say to the gentleman from Massachusetts that if debate is limited to 3 hours, the opponents of this measure will not have more than an hour and a half. I happen to know that there are at least two of us who ex-

pect to speak in opposition to this bill. In studying this question I can see where I, with my limited knowledge of these matters, might easily take 40 or 45 minutes to clarify the position which I take. I do not see how Members such as the gentleman from New York [Mr. REED] and others who want to talk on this matter can begin to discuss the subject in the limited time which will be allotted to them.

I shall not be averse to adjourning over until Monday, because I do not think anything would be accomplished by it. If I objected to the request of the gentleman from Texas, I know that probably I would be a very unpopular Member of Congress for the next 48 hours, and that a rule, a resolution, or a motion would be made to adjourn over; so nothing would be accomplished by it and I would be charged with demagoguery in this respect. I do not want to demagogue in this respect, because it is a question which must be devoid of demagoguery. I do want, however, to call attention to the fact that it is impossible even to read the pertinent paragraphs from the three leading decisions of the Supreme Court in an hour and a half of time, to say nothing of discussing it.

Mr. CELLER. Mr. Speaker, reserving the right to object, will the chairman, or the acting chairman, of the Ways and Means Committee be liberal with time when it comes to amendments, or will they invoke the cloture rule? Our Committee on the Judiciary has considered this matter for 15 years. It is a matter of the greatest importance, and we should have sufficient time in which to discuss it. I do not object to the request, but I do hope that when it comes time to offer amendments that there will be no invoking of the cloture rule so as to stop debate on the subject.

Mr. RAYBURN. Certainly there is no desire on the part of the majority members of the Ways and Means Committee to do anything like that; and, frankly, I think much light will be shed on the subject between now and 3:30.

The SPEAKER. Is there objection to the request of the gentleman from Texas [Mr. RAYBURN]?

Mr. WOLCOTT. Mr. Speaker, further reserving the right to object, may I say to the majority leader and to the minority members of the Ways and Means Committee that there is no immediate necessity for the passage of this bill. Why can we not let this matter go over until the fore part of next week? Surely this is much more important than any appropriation bill which we may have up for consideration at that time.

Mr. RAYBURN. Mr. Speaker, I may say to the gentleman that I very much desired a session tomorrow and Saturday to consider the May bill and get it out of the way this week. As the gentleman from Massachusetts has just stated, I agreed to take this bill up and dispose of it today in order that the Members could get away until Monday. We must consider the May bill on Monday. We have an appropriation bill ready for consideration, and if we get through with that, the gentleman from Georgia [Mr. VINSON] will probably bring in a bill for consideration. So next week will be a rather heavy week.

So far as having a session tomorrow and next day is concerned, if objection is made to my request, I would simply announce that everyone could go home or wherever they pleased, I would be here tomorrow and the Speaker would be here, and I would move to adjourn on the reading of the Journal tomorrow, so that the House would be back here Saturday. If there was nothing to do on that day, I would move to adjourn until Monday.

Mr. WOLCOTT. That is why I am not objecting. It is utterly futile and I am not going to object, but I may say that I have turned down urgent requests to speak in honor of Abraham Lincoln, but I believe we should stay here and honor him more by being on the floor to consider this bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas [Mr. RAYBURN]?

There was no objection.

THE EVIL THAT MEN DO—THE UTILITY FASCISTI—KENTUCKY, ILLINOIS, PENNSYLVANIA, MISSOURI—THE OKLAHOMA CONTROVERSY

Mr. RANKIN. Mr. Speaker, I ask unanimous consent to address the House for 1 minute.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi [Mr. RANKIN]?

There was no objection.

Mr. RANKIN. Mr. Speaker, owing to a misunderstanding that seems to have arisen, especially in the State of Oklahoma, relative to the application of the Flood Control Act passed during the last session of Congress, particularly with reference to the construction of the Dennison Dam, I desire to discuss that measure briefly, to answer some of the criticisms, and to point out the benefits this project would bring to the people of Oklahoma.

I have no quarrel, personally, with the Governor of Oklahoma; but I do not propose to sit idly by and see him, or any other man, or set of men, wreck this great program of flood control, navigation improvements, and power development on our navigable streams and their tributaries, or allow them to prevent the use of the power generated for the benefit of the masses of the American people, if I can help it.

I realize that the Power Trust lobbyists are swarming around the Capitol of Oklahoma just as they do around all State legislatures and just as they have been swarming around this Capitol lining up opposition to the T. V. A., and lately fighting the appropriation for the Gilbertsville Dam.

No doubt they are bringing every possible pressure to bear on the Legislature of Oklahoma, as well as on the Governor of that State, to try to sabotage the Flood Control Act of 1938—the greatest measure of its kind ever passed by the American Congress. I say it is the greatest measure of its kind, because of the fact that it contains provisions, to which I shall refer later, that really enable us to control the floods, improve navigation, and develop power on these streams for the benefit of the people in the surrounding area.

As I explained to the House the other day, I was largely responsible for these provisions, to save the waterpower of this country for the American people, being inserted in the Flood Control Act of 1938. Wherever one of these projects is developed, we hope to establish the yardstick for the proper measurement of electric lights and power. In my opinion, this is our only chance to bring justice to the electric consumers of this Nation, who are now bearing an annual overcharge of more than \$1,000,000,000 a year for electric lights and power.

We must wrest all the American people from the bondage of the Power Trust. This Nation cannot remain "half slave and half free."

The power business in America, as now conducted by the Power Trust, is the greatest racket of modern times. No other civilized, self-respecting nation on earth would have stood for it as long as we have.

Let me give you a typical example: On page 60 of this week's issue of Time magazine it is stated that one of these holding utility magnates "left a bicycle shop" 35 years ago and went into the power business, not as a producer, but as a stock manipulator. He got control of a holding company whose total assets, according to this magazine, today amount to \$900,000,000. By 1924 this man owned 96 percent of its stock, and by 1929 its shares had been split 60 to 1, and, listen to this: "The value of a single share had risen from \$10.50 to \$5,600." And this man owned 7,500,000 shares of this watered stock worth \$612,000,000, and this magazine goes on to say that "His yacht was the largest in the world."

The helpless consumers of electric energy supplied by the small companies controlled by this gigantic, blood-sucking holding company, were compelled to pay rates that would insure dividends on shares of stock valued at \$5,600 which, in truth, had cost only \$10.50.

I repeat it is the greatest racket of modern times, and 25,000,000 electric consumers throughout the Nation are its victims.

What we members of the public power bloc are trying to do is to rescue the power consumers from the clutches of this gigantic octopus, and to see that they are supplied with electric energy at the T. V. A. yardstick rates—or at rates based upon the cost of generation, transmission, and distribution.

THE EVIL THAT MEN DO

On yesterday we witnessed a pathetic spectacle in this House, when the gentleman from Missouri [Mr. SHORT], the gentleman from Illinois [Mr. DIRKSEN], the gentleman from Pennsylvania [Mr. FADDIS], and the gentleman from Kentucky [Mr. MAY] joined forces in their efforts to destroy the Gilbertsville Dam and to paralyze and wreck the administration's flood control, navigation improvement, and power program.

Shakespeare said—

The evil that men do lives after them;
The good is oft interred with their bones.

KENTUCKY

Unless we are able to get the appropriation for the Gilbertsville Dam restored in the Senate and held in by the House, the gentleman from Kentucky [Mr. MAY] will have helped to render an injury to the people of his State that will live long after he has passed away, and will forever overshadow any good he could ever hope to accomplish throughout his future public career, when he helped to destroy the greatest development ever undertaken in the State of Kentucky.

In addition to being harrassed with disastrous floods, in addition to the need for the development of navigation on the Tennessee River, the people of Kentucky are suffering under the additional burden of being overcharged more than \$9,000,000 a year for electric lights and power—although we have reduced light and power rates to the people of that State more than \$6,800,000 a year since the T. V. A. was created and its yardstick rates put into effect.

We have forced down rates in every community in America, and the people of Kentucky are now enjoying savings amounting to \$6,800,000 every year that rolls around. They are still overcharged, however, more than \$9,000,000 a year; and if the gentleman from Kentucky [Mr. MAY], the Power Trust, and the coal barons, who seem to be backing him in this fight, have their way, the people of that great State will continue to struggle under this burden for all time to come. They would even sabotage and destroy the T. V. A. and take away from the people of that State the \$6,800,000 of annual savings they now enjoy as a result of the creation of the T. V. A. and the promulgation of its yardstick rates and pile that burden back on to the light and power consumers of Kentucky.

PENNSYLVANIA

The gentleman from Pennsylvania [Mr. FADDIS] may think that he is helping the coal miners by fighting the T. V. A. In truth he is only helping the coal barons and the Power Trust which is interlocked with the National Coal Association—that aggregation of coal operators who reap the benefits from coal legislation while the poor miner who does the work is denied the use of cheap electricity and therefore denied the very comforts and conveniences which the products of his toil would produce.

I pointed out on this floor some days ago that one of the leading expert witnesses, representing the power interests, in the T. V. A. investigation, stated that power could be produced with coal—with \$3 per ton coal—at 4.18 mills a kilowatt-hour. That is cheaper than any municipality buys power from the T. V. A. They could generate power with Pennsylvania coal and distribute it to every consumer in the State of Pennsylvania at the T. V. A. yardstick rates. That would increase the consumption of coal, and the employment of coal miners, and at the same time it would benefit every human being who turns an electric switch in Pennsylvania, and add immeasurably to the comforts and conveniences of every home.

The same thing could be done in Ohio, Illinois, West Virginia, Oklahoma, Kentucky, and every other coal-producing State. But they won't do that; they won't even produce cheap power for the miners with the coal they dig from the ground, but invariably overcharge them for their electric lights, and what little power they use, on an average of more than 100 percent; while the Pennsylvania Railroad that runs through the coal mining districts of that State, and reaps

the profits for hauling this coal, is now running some of its trains with hydroelectric power produced at Conowingo Dam.

The people of Pennsylvania are today overcharged for electric light and power from \$85,000,000 a year, according to the T. V. A. rates, to \$104,000,000 a year, according to the Ontario rates—although we have forced reductions of \$70,600,000 a year in electric light and power rates in the State of Pennsylvania since the creation of the T. V. A.

They can produce electricity from coal mined in Pennsylvania and distribute it to the ultimate consumers throughout the entire State at the T. V. A. yardstick rates without loss. That would put more miners to work, stimulate industry in Pennsylvania, reduce the light and power rates to the people of that State \$85,000,000 a year, add to the comforts and conveniences of their homes by enabling them to employ more electrical appliances, and at the same time supply electricity to every farm home in the State.

ILLINOIS

The gentleman from Illinois [Mr. DIRKSEN] did everything he could to cripple the Tennessee Valley Authority. Probably he would like to call back the days of Samuel Insull, the power king, who reigned supreme in Illinois, only a few years ago. About the time Insull fell the T. V. A. was created. What a glorious exchange!

Since the T. V. A. was created, and its yardstick rates promulgated, we have forced light and power reductions to the people of Illinois amounting to \$65,600,000 a year. Every human being who turns an electric switch gets the benefit of these reductions every month. Yet the gentleman from Illinois would wipe them out, destroy the T. V. A. and its yardstick, and go back to the glorious days of the Insull empire.

We have just started to reduce rates in Illinois. The people of that State are still overcharged from \$66,000,000 a year according to the T. V. A. rates, to \$81,000,000 a year according to the Ontario rates.

How much greater injury could the gentleman from Illinois bring to the people of that State than to destroy the T. V. A., that great symbol of justice for light and power consumers, and turn them back to Insullism, depriving them of further reductions of light and power rates, and piling back upon their shoulders this extra burden of \$66,000,000 a year!

Illinois is another great coal-producing State. Yet the people of that proud Commonwealth, even in the coal producing area—even the very miners who dig the coal—are charged such exorbitant rates for electric lights and power that it is almost like paying rent to the power companies to live in their own homes or to do business in their own establishments.

As I said with reference to the State of Pennsylvania, they can produce electricity from coal mined in Illinois and distribute it to the ultimate consumers throughout the entire State at the T. V. A. yardstick rates without loss. That would put more miners to work, stimulate industry in Illinois, reduce light and power rates to the people of that State \$66,000,000 a year, add to the comforts and conveniences of their homes by enabling them to employ more electric appliances, and at the same time supply electricity to every farm home in Illinois at the T. V. A. yardstick rates.

MISSOURI

But "The most unkindest cut of all" came from the gentleman from Missouri [Mr. SHORT]. His clowning speech on yesterday, together with his repetition, of the stereotyped propaganda of the Power Trust helped to line up the Republican Members of the House to defeat the Gilbertsville appropriation; which defeat was the greatest blow that could have been delivered against our attempts to develop the White River in Arkansas and Missouri, including Table Rock and the James River projects, to control floods, improve navigation and generate enough electricity to supply the States of Missouri and Arkansas and a large portion of Oklahoma.

The coal barons, the Power Trust, and other enemies of the Tennessee Valley Authority with which he has aligned himself in this fight are against any development of the White River and will be found lined up solidly against the Table Rock

and James River projects, through the development of which we hope to control floods, improve navigation, and bring justice to the power consumers of that section of the Southwest.

How much greater injury could he have done to the people he represents? The people of the State of Missouri are now overcharged for electric light and power from \$23,000,000 a year according to the T. V. A. rates, to \$28,000,000 a year according to the Ontario rates—although, as I pointed out yesterday, we have forced reductions of light and power rates in the State of Missouri by more than \$12,000,000 a year since the T. V. A. was created and its yardstick rates established.

In addition to these overcharges in Missouri, the people of Arkansas are overcharged more than \$5,000,000 a year and the people of Oklahoma are overcharged more than \$11,000,000 a year for electric lights and power—making a total of approximately \$40,000,000 a year the people of those three States are overcharged for electric energy; and more than half of them are denied the use of any electricity at all.

I have searched the record of power rates in Missouri and I find that in every town and in every community in the district represented by the gentleman from Missouri [Mr. SHORT], the average residential and commercial consumer of electric energy is overcharged more than 100 percent on his light and power bill every month—and that considerably more than half the people in the district are denied the use of any electricity at all—especially in the rural sections.

Of all men who should support the Tennessee Valley Authority as well as our efforts to develop the White River and its tributaries—including Table Rock and the James River project, the gentleman from Missouri [Mr. SHORT] should be among the most enthusiastic.

In his speech on yesterday he repeated almost verbatim the old stock arguments of the Power Trust to the effect that 4,000,000 people own stock in private power companies and that their investments amounts to \$12,000,000,000.

As a matter of fact, this legislation will not affect legitimate investments. If the gentleman from Missouri will turn to the RECORD of January 12 and read my statement before the T. V. A. Investigating Committee he will see that I showed by the RECORD that of this \$12,000,000,000 investment claimed by the Power Trust, and its friends in the House, at least \$5,000,000,000 is water, or inflated values. I showed that under the Ontario system the investments for the generation, transmission, and distribution of the 90,000,000,000 kilowatt-hours of electricity produced and distributed in the United States last year, it would, at the very outside have required an investment of only \$4,778,680,000 instead of the \$12,000,000,000 quoted by the gentleman from Missouri [Mr. SHORT] on yesterday.

But I will go into the Missouri rates more fully at another time. I want to go into a thorough analysis of the light and power rates in his district and show how this unholy combination of the coal barons and the Power Trust is grinding the people of Missouri into the dust.

This is a national policy with me, and the gentleman's deflection will not cause me to cease my efforts to develop the White River and its tributaries, including Table Rock and the James River project, for the benefit of the people of that section of the country now and for generations to come.

In addition to controlling the floods and improving navigation on those streams, I want to give the people of that area an effective yardstick for the measurement of electric light and power rates. The rates they are now paying for electricity in every county, every city, every town, and every community represented by the gentleman from Missouri [Mr. SHORT] are so high, so exorbitant, and so unreasonable that, as I said, it is like paying rent to the Power Trust to live in their own homes or to do business in their own establishments.

THE OKLAHOMA SITUATION

Whenever the spokesmen for the Power Trust make a protest against legislation they invariably give a different reason for their objections from the one by which they are motivated.

Probably that is the reason they have misled the gentleman from Missouri [Mr. SHORT].

The Oklahoma controversy is merely an echo of the same fight now going on in New England, in which the Utilities are trying to prevent the development of any hydroelectric power to be distributed for the benefit of the people in the surrounding area. They would prefer to see us seal up those streams by building solid dams that would deprive the people of New England of the use of their hydroelectric power for at least another hundred years than to see these dams built, and penstocks installed for the generation of electric power, as the law provides—unless they could "reach an agreement" to have this power turned over to them so that they could rob the people with exorbitant rates on the power generated from their own natural resources. New England has no coal mines or oil fields. Therefore this is their only hope to secure cheap electricity.

They are giving "States' rights" as their reasons for protesting. States' rights!—which no utility has ever respected and which they have spent hundreds of millions of dollars to destroy whenever it suited their convenience in their grasping drive for wealth and power.

Under the proposed act, as it stood before these amendments were inserted, the Federal Government was to put up 70 percent of the funds for the construction of these dams and reservoirs, and the States and local communities 30 percent; and there was to be a divided responsibility. That would have been "duck soup" for the Power Trust. If the utilities could have influenced the Governor of a State involved, or even one branch of the legislature of any State involved, they could have prevented any development on any navigable stream from Maine to Mexico until the Government came to an "agreement" with them, or with the Governor who spoke their language. In that way they could have prevented the people from getting any benefits from the power generated.

Before the bill finally became a law we succeeded in having that provision eliminated, and the following provision substituted:

That in case of any dam and reservoir project, or channel improvement or channel rectification project for flood control, herein authorized or heretofore authorized by the act of June 22, 1936 (Public, No. 736, 74th Cong.), as amended, and by the act of May 15, 1928 (Public, No. 391, 70th Cong.), as amended by the act of June 15, 1936 (Public, No. 678, 74th Cong.), as amended, title to all lands, easements, and rights-of-way for such project shall be acquired by the United States or by States, political subdivisions thereof or other responsible local agencies and conveyed to the United States, and provisions (a), (b), and (c) of section 3 of said act of June 22, 1936, shall not apply thereto. Notwithstanding any restrictions, limitations, or requirement of prior consent provided by any other act, the Secretary of War is hereby authorized and directed to acquire in the name of the United States title to all lands, easements, and rights-of-way necessary for any dam and reservoir project or channel improvement or channel rectification project for flood control, with funds heretofore or hereafter appropriated or made available for such projects, and States, political subdivisions thereof, or other responsible local agencies, shall be granted and reimbursed from such funds, sums equivalent to actual expenditures deemed reasonable by the Secretary of War and the Chief of Engineers and made by them in acquiring lands, easements, and rights-of-way for any dam and reservoir project, or any channel improvement or channel rectification project for flood control heretofore or herein authorized: *Provided*, That no reimbursement shall be made for any indirect or speculative damages: *Provided further*, That lands, easements, and rights-of-way shall include lands on which dams, reservoirs, channel improvements, and channel rectifications are located; lands or flowage rights in reservoirs and highway, railway, and utility relocation.

SEC. 3. That in any case where the construction cost of levees or flood walls included in any authorized project can be substantially reduced by the evacuation of a portion or all of the area proposed to be protected and by the elimination of that portion or all of the area from the protection to be afforded by the project, the Chief of Engineers may modify the plan of said project so as to eliminate said portion or all of the area: *Provided*, That a sum not substantially exceeding the amount thus saved in construction cost may be expended by the Chief of Engineers, or in his discretion may be transferred to any other appropriate Federal agency for expenditure, toward the evacuation of the locality eliminated from protection and the rehabilitation of the persons so evacuated: *And provided further*, That the Chief of Engineers may, if he so desires, enter into agreement with States, local agencies, or the individuals concerned for the accomplishment by them, of such evacuation and rehabilitation and for their reimbursement from said sum for expenditures actually incurred by them for this purpose.

SEC. 4. That the following works of improvement for the benefit of navigation and the control of destructive floodwaters and other purposes are hereby adopted and authorized to be prosecuted under the direction of the Secretary of War and supervision of the Chief of Engineers in accordance with the plans in the respective reports hereinafter designated: *Provided*, That penstocks or other similar facilities adapted to possible future use in the development of hydroelectric power shall be installed in any dam herein authorized when approved by the Secretary of War upon the recommendation of the Chief of Engineers and of the Federal Power Commission.

You will note that under the provisions of section 4 it is provided that penstocks, to be used for the generation of hydroelectric power, may be installed in these dams when approved by the Secretary of War upon the recommendation of the Chief of Army Engineers and the Federal Power Commission.

The purpose of that is to generate the power in these streams that is now going to waste, and distribute it to the people in the surrounding territory at reasonable rates. That is what is causing the protest. The utilities do not want this power developed unless it is turned over to them to be resold to the ultimate consumers at exorbitant rates.

They do not want any yardstick for the proper measurement of light and power rates in the various areas affected if they can help it. We are determined to have these penstocks inserted, generators installed where necessary, and the power distributed at the yardstick rates.

Having failed in their attempts in New England to force the Federal Government to compromise with them, the power interests seem to have transferred the fight to Oklahoma. They want to prevent the generation and distribution of hydroelectric power at yardstick rates to the people of that State.

Oklahoma is intrinsically one of the richest States in this Union. She has a gentle climate, a fertile soil, and an abundant rainfall. She has mountains stored with coal and iron, and her plains and valleys are underlaid with gas and oil. The State is traversed by streams that contain enough hydroelectric power to supply the needs of all her people. Yet special interests are draining off her gas and oil, slowly and gradually exhausting her supply of coal, and preventing the development of her hydroelectric power—permitting it to run waste and wanton to the sea—while the people of Oklahoma are overcharged more than \$11,000,000 a year for electric lights and power, and a large percentage of the people of the State are denied the use of any electricity at all.

While the domestic consumers in my home town of Tupelo, Miss., where the T. V. A. rates are in effect, now use on an average of 180 kilowatt-hours a month, the average domestic consumption in Oklahoma is less than 60 kilowatt-hours a month—because of the exorbitant rates the people of that State have to pay.

If this Denison Dam, which has been so strenuously advocated by the gentleman from Oklahoma [Mr. CARTWRIGHT], is constructed, and the power generated and distributed to the people of Oklahoma at the yardstick rates, it will result in the reduction of light and power rates throughout the State, probably amounting to the present entire overcharge of \$11,000,000 a year. The consumption of electricity will grow by leaps and bounds, the number of electric appliances employed will multiply as if by magic, and electricity will be distributed to the farm homes of the State to relieve the farmer of many of the burdens he now has to bear, add to the comforts and conveniences of his home, and lift from the shoulders of the housewife the burdens of drudgery under which she has struggled throughout the centuries. It is the greatest opportunity ever offered to the people of Oklahoma.

In order that every one who reads this record may make his own comparisons and realize the enormous overcharges for electric lights and power the people of Oklahoma have to pay, I am inserting at this point a schedule showing the residential rates in the Province of Ontario, Canada, and in Tacoma, Wash., in the far West, as well as the T. V. A. rates in the South. I am following that with a statement showing the residential rates in every city and town in Oklahoma of more than 250 population. Since the average consumption in the State of Oklahoma is only about 50 kilowatt-hours a

month, I will not run this table above 100 kilowatt-hours in order to save space in the RECORD.

Table of comparative monthly rates—Residential service
MONTHLY CONSUMPTION

Rates	Kilowatt-hours		
	25	40	100
Ontario.....	\$0.75	\$1.02	\$1.74
Tacoma.....	1.13	1.52	2.12
T.V.A.....	.75	1.20	2.50

Now compare the above rates with the rates charged in the State of Oklahoma as shown by the following table, and you will see what enormous overcharges the domestic consumers of electricity in Oklahoma have to pay:

TABLE 1.—Typical net monthly bills, Jan. 1, 1938
[Communities of 250 population or more]

Community	Popula- tion	Lighting and small appliances		Lighting, small ap- pliances, and re- frigera- tion, 100 kilowatt- hours	Average charge in cents per kilowatt- hour for 25-kilo- watt- hour bill (prin- cipally lighting)
		25 kilo- watt- hours	40 kilo- watt- hours		
Achille.....	383	\$2.36	\$3.11	\$4.91	9.4
Ada.....	11,261	1.81	2.74	4.54	7.2
Adair.....	290	2.50	3.55	5.75	10.0
Addington.....	818	2.75	3.80	6.00	11.0
Afton.....	1,219	2.50	3.55	5.75	10.0
Agra.....	258	2.36	3.11	4.91	9.4
Albion.....	256	2.50	3.55	5.75	10.0
Alderson.....	421	2.25	3.80	5.50	9.0
Alex.....	598	2.75	3.80	6.00	11.0
Aline.....	429	2.50	3.80	7.70	10.0
Allen.....	1,438	2.75	4.30	6.90	11.0
Altus.....	8,439	2.12	3.00	5.28	8.5
Alva.....	5,121	1.81	2.74	4.54	7.2
Amber.....	8,319	2.75	3.80	6.00	11.0
Ames.....	290	2.36	3.11	4.91	9.4
Anadarko.....	5,036	2.35	3.40	7.10	9.4
Antlers.....	2,246	2.50	3.55	5.75	10.0
Apache.....	1,302	2.75	3.80	6.00	11.0
Arapahoe.....	414	2.75	3.80	6.00	11.0
Ardmore.....	15,741	1.81	2.74	4.54	7.2
Arnett.....	426	2.60	3.35	5.15	10.4
Asher.....	653	2.36	3.11	4.91	9.4
Atoka.....	1,856	2.50	3.55	5.75	10.0
Avant.....	696	2.50	3.70	6.30	10.0
Barnsdall.....	2,001	2.25	3.40	6.00	9.0
Bartlesville.....	14,763	1.91	2.81	4.91	7.6
Beaver City.....	1,028	2.50	3.40	5.80	10.0
Beggs.....	1,531	2.12	2.87	4.67	8.5
Bennington.....	402	2.36	3.11	4.91	9.4
Berwyn.....	300	2.36	3.11	4.91	9.4
Bessie.....	415	2.75	3.80	6.00	11.0
Bethany.....	2,032	1.60	2.43	4.23	6.4
Big Cabin.....	271	2.50	3.55	5.75	10.0
Billings.....	658	2.12	2.87	4.67	8.5
Binger.....	849	2.75	3.80	6.00	11.0
Bixby.....	1,251	2.12	2.87	4.67	8.5
Blackwell.....	9,521	2.00	2.75	5.75	8.0
Blair.....	585	2.75	3.80	6.00	11.0
Blanchard.....	1,040	2.75	3.80	6.00	11.0
Bluejacket.....	271	2.09	2.84	4.84	8.4
Boise City.....	1,256	3.50	4.25	6.25	14.0
Bokchito.....	466	2.36	3.11	4.91	9.4
Bokoshe.....	715	2.36	3.11	4.91	9.4
Boley.....	874	2.50	3.55	5.75	10.0
Boswell.....	934	2.50	3.55	5.75	10.0
Boynnton.....	1,204	2.36	3.11	4.91	9.4
Briggs.....	400	4.00	4.00	6.00	16.0
Braman.....	507	3.00	4.50	9.25	12.0
Bridgeport.....	432	2.75	3.80	6.00	11.0
Brinkman.....	252	2.75	3.80	6.00	11.0
Bristow.....	6,619	1.81	2.74	4.54	7.2
Britton.....	2,214	1.60	2.43	4.23	6.4
Broken Arrow.....	1,964	2.00	3.12	5.91	8.0
Broken Bow.....	2,291	2.26	3.31	5.51	9.0
Bromide.....	352	2.50	3.55	5.75	10.0
Buffalo.....	990	2.90	4.00	7.60	11.6
Burbank.....	372	2.63	4.20	6.00	10.5
Butler.....	473	2.75	3.80	6.00	11.0
Byars.....	502	2.36	3.11	4.91	9.4
Cache.....	425	3.45	5.30	9.60	13.8
Caddo.....	933	2.12	2.87	4.67	8.5
Calera.....	503	2.36	3.11	4.91	9.4
Calumet.....	481	2.36	3.11	4.91	9.4
Calvin.....	626	2.75	4.30	6.90	11.0
Camargo.....	291	2.60	3.35	5.15	10.4
Canadian.....	295	2.50	3.55	5.75	10.0
Caney.....	274	2.50	3.55	5.75	10.0
Canton.....	797	2.12	2.87	4.67	8.5
Canute.....	366	2.75	3.80	6.00	11.0
Cardin.....	437	2.09	2.84	4.84	8.4

TABLE 1.—Typical net monthly bills, Jan. 1, 1938—Continued

Community	Popula- tion	Lighting and small appliances		Lighting, small ap- pliances, and re- frigera- tion, 100 kilowatt- hours	Average charge in cents per kilowatt- hour for 25-kilo- watt- hour bill (prin- cipally lighting)
		25 kilo- watt- hours	40 kilo- watt- hours		
Carmen.....	904	\$2.50	\$3.80	\$6.80	10.0
Carnegie.....	2,063	2.50	3.55	5.75	10.0
Carney.....	328	2.36	3.11	4.91	9.4
Carter.....	642	2.75	3.80	6.00	11.0
Cashion.....	291	2.48	2.52	6.30	9.9
Castle.....	283	2.50	3.55	5.75	10.0
Catoosa.....	264	2.50	3.55	5.75	10.0
Cement.....	1,117	2.75	3.80	6.00	11.0
Chandler.....	2,717	2.12	2.87	4.67	8.5
Chattanooga.....	362	3.00	4.50	9.00	12.0
Checotah.....	2,110	2.12	2.87	4.67	8.5
Chelsea.....	1,527	2.25	3.60	7.20	9.0
Cherokee.....	2,236	1.95	3.00	4.95	7.8
Chesapeake.....	826	2.75	3.80	6.00	11.0
Chickasha.....	14,099	1.91	2.81	4.91	7.6
Choteau.....	430	2.50	3.55	5.75	10.0
Claremore.....	3,720	1.80	2.61	5.63	7.2
Clearwater.....	420	2.50	3.55	5.75	10.0
Cleo Springs (Cleo).....	356	2.36	3.11	4.91	9.4
Cleveland.....	2,959	1.50	2.40	5.00	6.0
Clinton.....	7,512	2.25	3.30	5.50	9.0
Coalgate.....	2,064	2.50	3.55	5.75	10.0
Colbert.....	510	2.36	3.11	4.91	9.4
Collinsville.....	2,249	2.50	4.00	7.00	10.0
Colony.....	415	2.75	3.80	6.00	11.0
Comanche.....	1,704	2.78	3.90	5.70	11.1
Commerce.....	2,608	2.09	2.84	4.84	8.4
Copan.....	521	2.09	3.23	7.79	8.4
Cordell.....	2,936	2.50	3.60	5.50	10.0
Corn.....	420	2.75	3.80	6.00	11.0
Covington.....	927	2.12	2.87	4.67	8.5
Coweta.....	1,274	2.25	3.55	5.75	9.0
Cowlington.....	265				
Coyle.....	421	2.36	3.11	4.91	9.4
Crescent.....	1,190	2.70	4.05	6.32	10.8
Crowder.....	340	2.50	3.55	5.75	10.0
Cushing.....	9,301	1.25	2.00	4.50	5.0
Custer City.....	698	2.75	3.80	6.00	11.0
Cyril.....	922	2.75	3.80	6.00	11.0
Dascoma.....	332	2.42	3.47	6.67	9.7
Davenport.....	1,072	2.12	2.87	4.67	8.5
Davidson.....	572	2.75	3.80	6.00	11.0
Davis.....	1,705	2.12	2.87	4.67	8.5
Dawson.....	842	2.28	3.18	5.28	9.1
Deer Creek.....	312	2.36	3.11	4.91	9.4
Delaware.....	526	1.90	2.80	5.80	7.6
Depew.....	1,126	2.36	3.11	4.91	9.4
Devol.....	328	2.75	3.80	6.00	11.0
Dewar.....	994	2.25	3.30	6.00	9.0
Dewey.....	2,095	2.00	3.05	5.25	8.0
Dill City (Dill).....	499	2.75	3.80	6.00	11.0
Dougherty.....	371	2.36	3.11	4.91	9.4
Douthead.....	500	2.09	2.84	4.84	8.4
Dover.....	409	2.36	3.11	4.91	9.4
Dow.....	550	2.25	3.30	5.50	9.0
Drummond.....	254	2.36	3.11	4.91	9.4
Drumright.....	4,972	1.81	2.74	4.54	7.2
Duncan.....	8,363	1.90	2.80	5.20	7.6
Duncan.....	8,363	1.90	2.80	5.20	7.6
Durant.....	7,463	1.81	2.74	4.54	7.2
Dustin.....	537	2.50	3.55	5.75	10.0
Earlsboro.....	1,950	2.36	3.11	4.91	9.4
East Duke (Duke).....	543	2.75	3.80	6.00	11.0
Edmond.....	3,576	1.85	2.90	6.05	7.4
El Reno.....	9,384	1.81	2.74	4.54	7.2
Eldorado.....	1,183	2.75	3.80	7.00	11.0
Elgin.....	335	2.75	3.80	6.00	11.0
Elk City.....	5,666	2.25	3.30	5.50	9.0
Elmer.....	288	2.75	3.80	6.00	11.0
Elmore.....	395	2.36	3.11	4.91	9.4
Enid.....	26,399	1.70	2.67	4.37	6.8
Erick.....	2,231	2.50	3.55	5.75	10.0
Eufaula.....	2,073	2.12	2.87	4.67	8.5
Fairfax.....	2,134	2.13	3.40	5.00	8.5
Fairland.....	2,679	2.09	2.84	4.84	8.4
Fairview.....	1,887	2.20	3.10	6.70	8.8
Fargo.....	325	2.60	3.35	5.15	10.4
Fletcher.....	739	2.75	3.80	6.00	11.0
Foraker.....	310	2.50	3.70	6.30	10.0
Forgant.....	605	2.50	3.40	5.80	10.0
Fort Cobb.....	827	2.75	3.80	6.00	11.0
Fort Gibson.....	1,159	2.36	3.11	4.91	9.4
Fort Towson.....	486	2.50	3.55	5.75	10.0
Foss.....	524	2.75	3.80	6.00	11.0
Francis.....	607	2.36	3.11	4.91	9.4
Frederick.....	4,568	2.25	3.30	5.50	9.0
Freedom.....	354	3.43	4.61	6.96	13.7
Gage.....	856	2.60	3.35	5.15	10.4
Garber City.....	1,356	2.12	2.87	4.67	8.5
Garden City.....	300	2.50	3.55	5.75	10.0
Garvin.....	263	2.50	3.55	5.75	10.0
Gate.....	307	3.39	4.40	8.00	13.2
Geary.....	1,892	3.25	4.90	10.00	13.0
Glencoe.....	297	2.36	3.11	4.91	9.4
Glenpool.....	310	2.36	3.11	4.91	9.4
Goltry.....	346	2.48	3.96	4.86	9.9
Goodwell.....	501	2.80	3.70	6.10	11.2

TABLE 1.—Typical net monthly bills, Jan. 1, 1938—Continued

Community	Popula- tion	Lighting and small appliances		Lighting, small ap- pliances, and re- frigera- tion, 100 kilowatt- hours	Average charge in cents per kilowatt- hour for 25 kilo- watt- hour bill (princi- pally lighting)
		25 kilo- watt- hours	40 kilo- watt- hours		
Gore	297	\$2.36	\$3.11	\$4.91	9.4
Gotebo	827	2.75	3.80	6.00	11.0
Gould	367	2.75	3.80	6.00	11.0
Gracemont	394	2.75	3.80	6.00	11.0
Granfield	1,416	2.50	3.55	5.75	10.0
Granite	1,341	2.52	3.60	7.92	10.1
Grant	296	2.50	3.55	5.75	10.0
Greenfield	369	2.36	3.11	4.91	9.4
Grove	804	2.50	3.55	5.75	10.0
Guthrie	9,682	1.81	2.74	4.54	7.2
Guymon	2,181	2.50	3.40	5.80	10.0
Haileyville	1,801	2.12	3.17	5.37	8.5
Hammon	736	2.75	3.80	6.00	11.0
Hanna	360	2.50	3.55	5.75	10.0
Harrah	693	2.12	2.87	4.67	8.5
Hartshorne	3,587	2.12	3.17	5.37	8.5
Haskell	1,682	2.12	2.87	4.67	8.5
Hastings	379	2.75	3.80	6.00	11.0
Haworth	276				
Healdton	2,017	2.12	2.87	4.67	8.5
Heavener	2,269	2.12	2.87	4.67	8.5
Helena	735	2.36	3.11	4.91	9.4
Hennessey	1,271	2.12	2.87	4.67	8.5
Henryetta	7,694	2.00	3.05	5.75	8.0
Hinton	1,009	2.75	3.80	6.00	11.0
Hobart	4,982	2.25	3.30	5.50	9.0
Hockerville	550	2.09	2.84	4.84	8.4
Hoffman	375	2.50	3.55	5.75	10.0
Holdenville	7,268	1.81	2.74	4.54	7.2
Hollis	2,914	2.50	3.55	5.75	10.0
Hominy	3,485	1.50	2.40	5.00	6.0
Hooker	1,628	3.00	4.00	5.50	12.0
Howe	692	2.36	3.11	4.91	9.4
Hugo	5,272	2.12	3.17	5.37	8.5
Hulbert	350	2.50	3.55	5.75	10.0
Hunter	336	2.36	3.11	4.91	9.4
Hydro	948	2.75	3.80	6.00	11.0
Idabel	2,581	2.12	3.17	5.37	8.5
Indianoma	288	3.00	4.50	9.00	12.0
Indianola	378	2.50	3.55	5.75	10.0
Inola	398	2.50	3.55	5.75	10.0
Jay	300	2.50	3.55	5.75	10.0
Jefferson	269	2.36	3.11	4.91	9.4
Jenks	1,110	2.12	2.87	4.67	8.5
Jennings	653	2.36	3.11	4.91	9.4
Jet	389	2.36	3.11	4.91	9.4
Jones	288	2.36	3.11	4.91	9.4
Kaw City	1,001	2.50	4.00	9.00	10.0
Kellyville	548	2.36	3.11	4.91	9.4
Kendrick	270	2.36	3.11	4.91	9.4
Kenefick	284				
Keota	470	2.50	3.55	5.75	10.0
Ketchum	265	2.50	3.55	5.75	10.0
Keyes	350	3.50	4.25	6.25	14.0
Keystone	482	2.50	3.70	6.30	10.0
Kiefer	606	2.36	3.11	4.91	9.4
Kingfisher	2,726	2.36	3.11	4.91	9.4
Kingston	552	2.36	3.11	4.91	9.4
Kinta	259	2.50	3.55	5.75	10.0
Kiowa	689	2.50	3.55	5.75	10.0
Konawa	2,070	2.12	2.87	4.67	8.5
Krers	1,375	2.12	3.17	5.37	8.5
Kusa	266	2.50	3.55	5.75	10.0
Lamar	250				
Lamont	554	2.12	2.87	4.67	8.5
Langston	351	2.36	3.11	4.91	9.4
Laverne	903	2.40	3.60	7.50	9.6
Lawton	12,121	1.91	2.81	4.91	7.6
Leedey	646	2.75	3.80	6.00	11.0
Lehigh	497	2.50	3.55	5.75	10.0
Lenapah	336	1.90	2.80	5.80	7.6
Lexington	836	2.50	3.40	7.00	10.0
Lindsay	1,713	2.75	3.40	7.00	11.0
Loco	333				
Locust Grove	510	2.50	3.55	5.75	10.0
Lone Wolf	1,023	2.75	3.80	6.00	11.0
Longdale	284	2.36	3.11	4.91	9.4
Lookeba	312	2.75	3.80	6.00	11.0
Luther	613	2.36	3.11	4.91	9.4
Madill	2,203	2.12	2.87	4.67	8.5
Manchester	281	2.75	4.25	8.00	11.0
Manngum	4,806	2.25	3.15	5.40	9.0
Manitow	323	3.00	4.80	7.50	12.0
Mannford	421	2.50	3.70	6.30	10.0
Mannsville	372	2.36	3.11	4.91	9.4
Maramec	376	2.36	3.11	4.91	9.4
Marietta	1,505	2.12	2.87	4.67	8.5
Marland	361	2.36	3.11	4.91	9.4
Marlow	3,084	2.00	2.85	5.35	8.0
Marshall (New Marshall)	695	2.12	2.87	4.67	8.5
Martha	327	2.75	3.80	6.00	11.0
Maud	4,326	2.12	2.87	4.67	8.5
May	258	3.10	4.60	8.05	12.4
Maysville	875	2.12	2.87	4.67	8.5
McAlester	11,804	1.91	2.81	4.91	7.6
McCourtain	934	2.50	3.55	5.75	10.0
McLoud	812	2.36	3.11	4.91	9.4
Medford	1,084	2.12	2.87	4.67	8.5

TABLE 1.—Typical net monthly bills, Jan. 1, 1938—Continued

Community	Popula- tion	Lighting and small appliances		Lighting, small ap- pliances, and re- frigera- tion, 100 kilowatt- hours	Average charge in cents per kilowatt- hour for 25 kilo- watt- hour bill (princi- pally lighting)
		25 kilo- watt- hours	40 kilo- watt- hours		
Medicine Park	485	\$3.00	\$4.50	\$9.00	12.0
Meeker	562	2.36	3.11	4.91	9.4
Miami	8,064	2.04	3.06	6.02	8.2
Milburn	429	2.36	3.11	4.91	9.4
Mill Creek	422	2.36	3.11	4.91	9.4
Minco	962	2.75	3.80	6.00	11.0
Moffett	340	2.36	3.11	4.91	9.4
Moore	538	2.36	3.11	4.91	9.4
Mooreland	706	2.25	3.30	5.50	9.0
Morris	1,706	2.05	2.95	5.05	8.2
Morrison	284	2.36	3.11	4.91	9.4
Mounds	740	2.36	3.11	4.91	9.4
Mountain Park	459	2.75	3.80	6.00	11.0
Mountain View	1,025	2.75	3.80	6.00	11.0
Muldrow	557	2.36	3.11	4.91	9.4
Mulhall	374	2.36	3.11	4.91	9.4
Muskogee	32,025	1.70	2.57	4.37	6.8
Nashville	412	2.36	3.11	4.91	9.4
Newkirk	2,135	2.00	2.90	5.50	8.0
Nichols Hills	450	1.60	2.43	4.23	6.4
Nicomia Park	565	2.36	3.11	4.91	9.4
Ninnekah	410	2.75	3.80	6.00	11.0
Noble	463	2.36	3.11	4.91	9.4
Norman	9,603	1.81	2.74	4.54	7.2
North Miami	503	2.09	2.84	4.84	8.4
Nowata	3,531	1.91	2.81	4.91	7.6
Oakwood	266	2.36	3.11	4.91	9.4
Ochelata	335	2.50	3.70	6.30	10.0
Oilton	1,518	2.12	2.87	4.67	8.5
Okarche	482	2.36	3.11	4.91	9.4
Okeene	1,035	2.02	3.24	5.04	8.1
Okemah	4,092	2.00	3.05	6.00	8.0
Oklahoma City	185,389	1.60	2.43	4.23	6.4
Oklmulgee	17,097	1.91	2.81	4.91	7.6
Oktaha	292	4.00	4.00	6.00	16.0
Olustee	651	2.75	3.80	7.50	11.0
Oologah	263	2.50	3.55	5.75	10.0
Osage City	627	2.50	3.70	6.30	10.0
Owasso	416	2.50	3.55	5.75	10.0
Paden	595	2.36	3.11	4.91	9.4
Panama	754	2.36	3.11	4.91	9.4
Paoli	394	2.36	3.11	4.91	9.4
Pauls Valley	4,235	1.81	2.74	4.54	7.2
Pawhuska	5,931	1.75	2.65	5.25	7.0
Pawnee	2,562	1.90	2.80	5.20	7.6
Perkins	606	2.36	3.11	4.91	9.4
Perry	4,206	1.25	2.00	5.00	5.0
Picher	7,773	2.09	2.84	4.84	8.4
Pine Valley	650	2.50	3.55	5.75	10.0
Pittsburg	873	3.00	4.65	10.75	12.0
Pleasant Valley	437	2.50	3.55	5.75	10.0
Pocasset	432	2.75	3.80	6.00	11.0
Ponca City	10,136	1.95	3.00	5.40	7.8
Pond Creek	857	2.50	3.70	7.90	10.0
Porter	525	2.50	3.55	5.75	10.0
Porum	471	2.36	3.11	4.91	9.4
Poteau	3,169	2.12	2.87	4.67	8.5
Prague	1,299	2.25	3.60	4.92	9.0
Preston	307	2.50	3.55	5.75	10.0
Pryor (Pryor Creek)	1,828	2.05	2.95	5.30	8.2
Purecell	2,817	2.10	3.20	6.20	8.4
Quapaw	1,340	2.09	2.84	4.84	8.4
Quinton	1,804	2.50	3.55	5.75	10.0
Ralston	725	2.63	4.20	6.00	10.5
Ramona	617	2.50	3.70	6.30	10.0
Randlett	257	3.00	4.50	9.00	12.0
Ravia	345	2.56	3.11	4.91	9.4
Red Oak	460	2.50	3.55	5.75	10.0
Red Rock	375	2.36	3.11	4.91	9.4
Ringling	1,002	2.12	2.87	4.67	8.5
Ringwood	265	2.36	3.11	4.91	9.4
Ripley	487	2.36	3.11	4.91	9.4
Rocky	518	2.75	3.80	6.00	11.0
Roff	772	2.36	3.11	4.91	9.4
Roosevelt	721	2.75	3.80	6.00	11.0
Rosedale	268	2.36	3.11	4.91	9.4
Rush Springs	1,340	2.75	3.80	6.00	11.0
Ryan	1,258	2.70	3.90	8.20	10.8
St. Louis	493	2.36	3.11	4.91	9.4
St. Louis	250	2.09	2.84	4.84	8.4
Salina	582	2.50	3.55	5.75	10.0
Sallisaw	1,785	1.84	2.52	5.22	7.4
Sand Springs	6,074	2.00	2.95	5.25	8.0
Sapulpa	10,533	1.81	2.74	4.54	7.2
Sasakwa	781	2.36	3.11	4.91	9.4
Sayre	3,157	2.25	3.30	5.50	9.0
Schulter	300	2.50	3.55	5.75	10.0
Selling	568	2.60	3.35	5.15	10.4
Seminole	11,459	1.81	2.74	4.54	7.2
Sentinel	1,269	2.50	3.55	5.75	10.0
Shamrock	777	2.36	3.11	4.91	9.4
Shattuck	1,490	2.36	3.11	4.91	9.4
Shawnee	23,283	1.70	2.57	4.37	6.8
Shidler	1,177	2.50	3.70	6.30	10.0
Skedee	272	2.63	3.20	6.00	10.5
Skiatook	1,789	2.25	3.40	6.00	9.0
Slick	422	2.36	3.11	4.91	9.4
Smithville	319				

TABLE 1.—Typical net monthly bills, Jan. 1, 1938—Continued

Community	Popula- tion	Lighting and small appliances		Lighting, small ap- pliances, and re- frigera- tion, 100 kilowatt- hours	Average charge in cents per kilowatt- hour for 25 kilo- watt- hour bill (princi- pally lighting)
		25 kilo- watt- hours	40 kilo- watt- hours		
Snyder	1,195	\$2.50	\$3.55	\$5.75	10.0
Soper	417	2.50	3.55	5.75	10.0
South Coffeyville	271	1.50	2.40	5.50	6.0
Sparks	470	2.36	3.11	4.91	9.4
Spavina	500	2.50	3.55	5.75	10.0
Spelter City	500	2.00	3.05	5.75	8.0
Sperry	563	2.50	3.60	6.00	10.0
Spiro	999	2.30	3.20	5.60	9.2
Sterling	361	2.75	3.80	6.00	11.0
Stigler	1,517	2.50	3.55	5.75	10.0
Stillwater	7,016	1.75	2.70	5.90	7.0
Stillwell	1,366	3.12	5.00	6.87	12.5
Stonewall	478	2.75	4.30	6.90	11.0
Strang	286	2.50	3.55	5.75	10.0
Stratford	950	2.12	2.87	4.67	8.5
Stringtown	558	2.50	3.55	5.75	10.0
Strong City	353	2.75	3.80	6.00	11.0
Stroud	1,894	2.25	3.30	5.75	9.0
Stuart	535	2.50	3.55	5.75	10.0
Sulphur	4,242	2.12	2.87	4.67	8.5
Taft	690				
Tahlequah	2,495	1.75	2.50	4.80	7.0
Talihina	1,032	2.50	3.55	5.75	10.0
Taloga	436	2.60	3.35	5.15	10.4
Tecumseh	2,419	2.25	3.30	6.50	9.0
Temple	1,182	2.50	3.55	5.75	10.0
Terral	593	3.00	3.72	6.12	12.0
Texhoma	819	3.50	4.25	6.25	14.0
Texola	581	2.75	3.80	6.00	11.0
Thomas	1,256	2.75	3.80	6.00	11.0
Tipton	1,459	2.50	3.55	5.75	10.0
Tishomingo	1,281	2.12	2.87	4.67	8.5
Tonkawa	3,311	2.03	3.11	5.03	8.1
Tryon	299	2.36	3.11	4.91	9.4
Tulsa	141,258	1.50	2.35	4.65	6.0
Do	141,258	1.50	2.35	4.65	6.0
Turpin	280	2.80	3.70	6.10	11.2
Tuttle	766	2.75	3.80	6.00	11.0
Tuxedo	462	2.38	3.43	6.13	9.5
Tyrone	482	2.80	3.70	6.10	11.2
Union City	300	2.75	3.80	6.00	11.0
Valliant	608	2.50	3.55	5.75	10.0
Verden	587	2.75	3.80	6.00	11.0
Vian	900	2.36	3.11	4.91	9.4
Vici	593	2.60	3.35	5.15	10.4
Vinita	4,263	2.00	2.90	5.25	8.0
Wagoner	2,994	2.00	3.05	5.75	8.0
Wakita	317	2.36	3.11	4.91	9.4
Walters	2,262	2.70	4.20	6.60	10.8
Wanette	758	2.36	3.11	4.91	9.4
Wapanucka	553	2.50	3.55	5.75	10.0
Warner	316	2.36	3.11	4.91	9.4
Washington	400	2.36	3.11	4.91	9.4
Watonga	2,228	2.25	3.30	5.75	9.0
Watts	353	2.50	3.55	5.75	10.0
Waukomis City	445	2.36	3.11	4.91	9.4
Waurika	2,368	2.50	3.55	5.75	10.0
Wayne	427	2.36	3.11	4.91	9.4
Waynoka	1,840	2.18	3.12	5.51	8.7
Weatherford	2,417	2.50	3.55	5.75	10.0
Webb City	493	2.50	3.70	6.30	10.0
Webbers Falls	415	2.36	3.11	4.91	9.4
Welch	448	2.09	2.84	4.84	8.4
Weleotka	2,042	2.25	3.60	8.10	9.0
Wellston	632	2.36	3.11	4.91	9.4
Westville	691	2.50	3.55	5.75	10.0
Wetumka	2,153	2.70	3.70	6.10	10.8
Wewoka	10,401	1.81	2.74	4.54	7.2
Wilburton	1,524	2.12	3.17	5.37	8.5
Willow	347	2.75	3.80	6.00	11.0
Wilson	2,517	2.50	3.85	5.00	10.0
Wirt	650	2.36	3.11	4.91	9.4
Wister	761	2.50	3.55	5.75	10.0
Woodville	353				
Woodward	5,056	2.12	2.87	4.67	8.5
Wright City	919	2.50	3.55	5.75	10.0
Wyandotte	271	2.09	2.84	4.84	8.4
Wynnewood	1,820	2.50	3.70	7.00	10.0
Wynona	1,171	2.50	3.70	6.30	10.0
Yale	1,734	2.50	3.70	6.00	10.0
Yeager	300				
Yukon	1,455	1.96	2.48	4.58	7.8

comparison. Remember that the commercial consumers in the smaller towns are all paying at least as much as are the consumers in these towns of 2,500 or more.

Table of comparative monthly rates—Commercial service—Monthly consumption

Rates	Kilowatt-hours				
	50	150	375	750	1,500
Ontario	\$1.35	\$4.05	\$7.43	\$14.85	\$29.03
Tacoma	1.75	4.75	10.38	17.25	28.50
T. V. A.	1.50	4.50	10.00	17.50	27.50

TABLE 3.—Typical net monthly bills, Jan. 1, 1938—Commercial light service
[Communities of 2,500 population or more]

Community	Popula- tion	Kilowatt-hours				
		50	150	375	750	1,500
Ada	11,261	\$3.36	\$9.21	\$19.83	\$35.46	\$62.96
Altus	8,439	4.50	13.05	29.03	49.95	76.73
Alva	5,121	3.36	9.21	19.83	35.46	64.00
Anadarko	5,035	5.00	11.50	23.25	39.50	62.96
Ardmore	15,741	3.36	9.21	19.83	35.46	64.00
Bartlesville	14,763	4.00	11.25	23.85	43.20	62.96
Blackwell	9,521	3.25	8.25	19.50	38.25	64.00
Bristow	6,619	3.36	9.21	19.83	35.46	62.96
Chandler	2,717	4.12	10.87	21.50	37.12	64.00
Chickasha	14,009	4.00	9.60	18.60	32.10	64.00
Claremore	3,720	3.15	7.65	15.75	29.25	51.75
Cleveland	2,959	4.25	12.75	31.88	63.75	127.50
Clinton	7,512	5.00	10.50	19.50	32.00	54.50
Commerce	2,608	3.34	7.44	16.77	33.54	67.08
Cordell	2,936	4.50	10.50	22.50	35.00	90.00
Cushing	9,301	2.50	7.00	16.00	28.50	51.00
Drumright	4,972	3.36	9.21	19.83	35.46	64.00
Duncan	8,363	4.50	10.50	21.75	35.50	58.00
Durant	7,463	3.36	9.21	19.83	35.46	64.00
Edmond	3,576	3.20	7.70	17.82	34.70	68.45
El Reno	9,384	3.36	9.21	19.83	35.46	64.00
Elk City	5,666	5.00	10.50	19.50	32.00	54.50
Enid	26,399	3.15	8.80	19.42	35.05	62.55
Frederick	4,568	4.50	9.50	18.50	31.00	53.50
Guthrie	9,582	3.36	9.21	19.83	35.46	64.00
Hartshorne	3,587	4.50	10.00	18.25	29.50	52.00
Henryetta	7,694	4.00	11.25	24.80	46.10	88.70
Hobart	4,982	5.00	10.50	22.75	41.50	79.00
Holdenville	7,268	3.36	9.21	19.83	35.46	64.00
Hollis	2,914	5.00	10.50	19.50	33.00	55.50
Hominy	3,485	3.00	9.00	20.00	32.50	52.50
Hugo	5,272	4.12	9.12	18.12	30.62	53.12
Idabel	2,581	4.12	9.12	18.12	30.62	53.12
Kingfisher	2,726	5.00	13.50	29.00	51.50	98.50
Lawton	12,121	4.00	9.60	18.60	32.10	54.50
Mangum	4,806	4.50	13.05	30.60	55.35	98.10
Marlow	3,084	3.80	10.30	22.05	40.80	78.30
Maud	4,326	4.12	10.87	21.50	37.12	64.00
McAlester	11,804	3.66	9.16	18.41	30.91	53.41
Miami	8,064	3.56	8.66	19.81	38.58	72.06
Muskogee	32,026	3.15	8.80	19.42	35.05	62.55
Norman	9,603	3.36	9.21	19.83	35.46	64.00
Nowata	3,531	3.93	8.93	15.68	42.50	64.00
Okemah	4,002	4.00	10.00	19.00	34.00	64.00
Oklahoma City	185,389	2.98	8.48	19.11	34.73	62.23
Okmulgee	17,097	4.50	13.00	26.75	45.50	83.00
Pauls Valley	4,235	3.36	9.21	19.83	35.46	62.96
Pawhuska	5,931	4.00	10.50	22.25	37.50	67.50
Pawnee	2,562	4.00	10.50	20.50	32.50	55.00
Perry	4,206	2.50	7.00	16.00	28.50	51.00
Picher	7,773	3.34	7.44	16.77	33.54	67.08
Ponca City	16,136	3.25	9.75	23.50	45.50	80.00
Poteau	3,169	4.12	10.87	21.50	37.12	64.00
Purcell	2,817	3.90	10.90	26.65	52.90	105.40
Sand Springs	6,674	4.00	8.75	17.75	32.75	57.75
Sapulpa	10,533	3.36	9.21	19.83	35.46	62.96
Sayre	3,157	5.00	10.50	19.50	32.00	54.50
Seminole	11,459	3.36	9.21	19.83	35.46	62.96
Shawnee	23,283	3.15	8.80	19.42	35.05	62.55
Stillwater	7,016	3.30	7.90	15.03	23.15	38.15
Sulphur	4,242	4.12	10.87	21.50	37.12	64.00
Tonkawa	3,311	3.83	10.58	24.08	42.98	76.73
Tulsa	141,258	3.50	9.75	21.75	43.50	87.00
Tulsa	141,258	4.00	11.00	23.38	40.25	70.25
Vinita	4,263	4.00	9.00	15.75	27.00	49.50
Wagoner	2,994	4.00	11.00	22.75	39.00	64.00
Wewoka	10,401	3.36	9.21	19.83	35.46	62.96
Wilson	2,517	4.75	11.50	23.25	42.00	79.50
Woodward	5,056	4.12	10.87	21.50	37.12	64.00

Now let us examine the rates the commercial consumers of electricity in Oklahoma have to pay—that is the merchants, hotel, restaurant, and filling-station operators, and all others who have to pay commercial rates.

I am inserting, first, a table of rates for commercial consumers in Ontario, Canada; Tacoma, Wash.; and the Tennessee Valley; and following it with a table showing the commercial rates paid in every town in Oklahoma of over 250 population. I do this in order that you may make your own

You will see from these tables that commercial consumers in Oklahoma are practically paying rent to the power companies to get to do business in their own houses.

How can any one who is in the remotest degree interested in the welfare of the people of Oklahoma read these rates and make these comparisons, and oppose the construction of the projects on these streams that would not only control floods and improve navigation, but would furnish hydro-electric power to be distributed to the ultimate consumers in such a way as to force these rates down to reasonable levels, relieve the consumers of that State of an overcharge of \$11,000,000 a year, and bring about the electrification of every farm home in Oklahoma!

THE UTILITY FASCIST

But we might as well face the real issue. This is the battle of the century. This country is now in the grip of a utility Fascist that sprawls like a huge octopus over the entire Nation, usurping the powers of government by controlling governors, intimidating courts, browbeating commissions, and corrupting legislatures.

It has about destroyed what free press we had through the great financial influences it controls, and its venal voice is now heard, in a thousand radio broadcasts, skillfully camouflaged to deceive the public.

Already I think I can begin to read the signs of its campaign contributions in the last congressional election. Whenever a selfish interest primes a political pump it always expects what it pours in to be the first to come out—and that doubled many times.

Let me warn the Republicans in the House, as well as the recalcitrant Democrats, that if they become subservient to the utilities, and especially to the Power Trust, and let this octopus wrap its tentacles around their necks, it will be as fatal to them as was the dead albatross that was swung to the neck of the Ancient Mariner.

There are 25,000,000 power consumers throughout the United States who are now paying overcharges for electric lights and power of more than \$1,000,000,000 a year. To them the T. V. A. is a symbol of protection and its yardstick is a golden wand, the sesame of their liberation from the bondage of the Power Trust.

This is a fight to the finish! There will be no compromise! He that is not with us is against us! Men who believe in common justice for the masses of the American people will not fail them in this cause!

EXTENSION OF REMARKS

Mr. MITCHELL. Mr. Speaker, I ask unanimous consent to extend my remarks in the Record on the subject of the migration of the Negro from the farms of the South, the cause and the remedy, and to include a letter which I received from Dr. Kelly Miller, former dean of Howard University, together with my answer to that letter.

The SPEAKER. Is there objection to the request of the gentleman from Illinois [Mr. MITCHELL]?

There was no objection.

THE NATIONAL DEFENSE

Mr. SABATH, from the Committee on Rules, submitted the following privileged resolution (Rept. No. 35), which was referred to the House Calendar and ordered to be printed:

House Resolution 88

Resolved, That immediately upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 3791, a bill to provide more effectively for the national defense by carrying out the recommendations of the President in his message of January 12, 1939, to the Congress. That after general debate, which shall be confined to the bill and shall continue not to exceed 6 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Military Affairs, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the Committee shall rise and report the same to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit, with or without instructions.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Crockett, its Chief Clerk, announced that the Senate insists upon its amendments to the bill (H. R. 2868) entitled "An act making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1939, to provide supplemental appropriations for the fiscal year ending June 30, 1939, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ADAMS, Mr. GLASS, Mr. McKELLAR, Mr. HAYDEN, Mr. BYRNES, Mr. HALE, and Mr. TOWNSEND to be the conferees on the part of the Senate.

THE PUBLIC SALARY TAX ACT OF 1939

Mr. McCORMACK. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 3790) relating to the taxation of the compensation of public officers and employees.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 3790, with Mr. COFFEE of Nebraska in the chair.

The Clerk read the title of the bill.

The first reading of the bill was dispensed with.

The CHAIRMAN. The gentleman from Massachusetts is recognized for 1½ hours.

Mr. McCORMACK. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, there are two titles to this bill. The first title follows out one of the recommendations recently made by the President when he recommended to the Congress that legislation be enacted which would subject all public employees, Federal, State, county, and municipal, to the income-tax laws of the Federal Government in the case of State employees, and the employees of political subdivisions of States, and to the State income-tax laws in the case of Federal employees.

Title II relates to the application of title I, providing that with the exception of certain employees of State and local functions which have always been subjected to the income-tax law, such as employees of a State liquor-store system, for example, or of a municipally owned street railway or a municipally owned gas or electric company, that all other employees shall not be subject retroactively to 1939 to a Federal income-tax law or, on the other hand, Federal employees shall not be subject to a State income-tax law for the year 1938 and prior thereto.

It is not my purpose to discuss title I of this bill at any length. Outside of a legal question involved, it seems to me that the objective of this bill is meritorious. I noticed in the press only a day or two ago the Gallup poll on this question showed, as I remember, either 83 or 87 percent of those contacted felt that public employees, like all other taxpayers, should be subjected to the income-tax laws of the several States and of the Federal Government.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Tennessee.

Mr. COOPER. The Gallup polls shows 87 percent for and 13 percent against.

Mr. McCORMACK. I thank the gentleman. I was not sure whether it was 83 or 87 percent.

Mr. COOPER. If the gentleman will yield further, I may also say I have had the opportunity recently to examine a pretty large number of clippings and editorials from newspapers throughout the entire Nation, and I believe it is fair to say that the comment of these editorials and newspaper clippings runs about 80 percent in favor of this proposed legislation and only about 20 percent against it.

Mr. McCORMACK. I thank the gentleman.

Mr. LUTHER A. JOHNSON. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Texas.

Mr. LUTHER A. JOHNSON. I should like to know if the committee gave consideration to the question of whether or not legislation of this character could be enacted without amendment of the Constitution.

Mr. McCORMACK. I was going to discuss that point. The gentleman will note I said that it seemed to me that, outside of the legal question involved, public employees should be subject to the income-tax laws of the Federal Government and of the several States the same as any other taxpayers.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. CELLER. Will the gentleman also indicate whether or not he believes the law as now written by virtue of the Revenue Act of 1938 does not now tax those very salaries?

Mr. McCORMACK. I shall have that point in mind.

I am particularly concerned with title II, which prevents taxes being applied retroactively to the years prior to 1939 with the exception, as I have pointed out, of that class of State or city or county employees, whoever they may be, who have been engaged in activities such as the liquor business or a municipally owned street railway, and who have always been subject to the Federal income-tax laws. There has never been any dispute about that or any question, as far as I know. All other State and municipal employees are protected against the retroactive application of the Federal income-tax laws, and naturally when we waive the immunity of the Federal Government as far as its employees are concerned we also provide that there shall be no retroactive taxes applied prior to the current year.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. Briefly.

Mr. MOTT. Is the gentleman aware that if title II alone were involved here there would be no objection to the bill from anyone on either side of the House? There is no objection to title II. The objection is to the first part of the bill.

Mr. McCORMACK. Title II came about as a result of the Gerhardt decision, and I believe there was a decision by the Supreme Court made just prior to that one—I make this statement with reservations—in which the Supreme Court stated that State employees of an insurance department concerned with the receivership of insurance companies, but whose salaries were paid out of the funds of the companies in receivership, were subject to the Federal income-tax laws. Until that decision it was generally felt that such employees were not subject to the Federal income-tax laws.

Then along came the Gerhardt decision, wherein the Supreme Court held that employees of the Port of New York Authority were subject to the Federal income-tax laws. Of course, this decision affected employees of other States of the Union and of their political subdivisions who were engaged in similar activities. For example, in my own city, the employees of the Boston Transit Commission would undoubtedly be affected and covered by the Gerhardt decision.

Mr. WADSWORTH. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. Certainly; I am always pleased to yield to the gentleman from New York.

Mr. WADSWORTH. The gentleman from Massachusetts has referred to the Gerhardt decision. Does not that decision contain an observation to the effect that the employees of the Port of New York Authority are not employees of the State of New York?

Mr. McCORMACK. I believe the Supreme Court, as I recall it, proceeded upon the reasoning that those employees were not engaged in an essential governmental function and, therefore, that was the main question in that case. The Court determined that the employees were not engaged in an essential governmental function and, therefore, were subject to the Federal income-tax laws.

I know of no one who is opposed to title II. Title II protects all State and municipal employees from the retroactive application of the Federal income-tax laws, with the exception of the limited group to which I have referred on

two occasions—employees of a State-owned liquor system and employees of a municipally owned street railway.

[Here the gavel fell.]

Mr. McCORMACK. Mr. Chairman, I yield myself 3 additional minutes.

Coming to title I, it is my opinion, for whatever it may be worth, that if it can be done, such employees should be subject to the income-tax laws of the Nation and of the State. Certainly I can see no reason why I as a Congressman should not pay an income tax in the Commonwealth of Massachusetts on the compensation I receive from the Federal Government, the same as a businessman or a professional man or any other person in Massachusetts with an income is subject to the income-tax laws of my Commonwealth.

Mr. WOLCOTT. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. Just briefly; I do not want to take too much time.

Mr. WOLCOTT. If the gentleman as a Member of Congress, having taken an oath without mental reservation to support the Constitution, believes reasonably and logically, according to his own deductions, that there is a constitutional question involved and that the Congress of the United States does not have the constitutional authority to do what we seek to do under title I, does the gentleman believe he would still be justified in voting for title I?

Mr. McCORMACK. Yes; and I will give my reasons. I thoroughly respect the views of any gentleman who disagrees with me and respect his right of disagreement.

We are living, fortunately, under a government which is a constitutional democracy. Under the Constitution there are three separate and coordinate branches of government—the legislative, the executive, and the judicial. Legislation is not complete under our form of government simply with the passage of a bill by the legislative branch and its approval by the executive.

Every individual has the right to raise the question of the constitutionality of any act passed by the Congress or any legislative body, and then it goes before the courts for interpretation as to whether or not Congress or a State legislature has exceeded its constitutional authority; and I believe, if there is a reasonable doubt or if there is a fair doubt in my mind as to the constitutionality of legislation, in whole or in part, and I also feel the legislation should become law, then I believe it is my duty as a Member of this body to vote for such legislation, because the courts could not pass upon it unless the Congress had first acted.

[Here the gavel fell.]

Mr. McCORMACK. Mr. Chairman, I yield myself 2 additional minutes.

Mark you, I respect the views of any man who may entertain a contrary opinion, but we are not living under a parliamentary government like in England, where an act of Parliament is final and supreme and where the courts cannot pass upon it, and the only controlling influence is public opinion. Under our form of government legislation is never complete until it has been finally acted upon by the Supreme Court. I recall a bill where a distinguished President vetoed it because of his opinion that it was unconstitutional, and honestly so, but the Congress passed it over his veto, and the Supreme Court upheld the constitutionality of that act.

Mr. DUNCAN and Mr. CELLER rose.

Mr. McCORMACK. I yield to the gentleman from Missouri, a member of the committee.

Mr. DUNCAN. Is it not a fact that there is no specific provision of the Constitution prohibiting the Federal taxing of State employees or the reverse, and that the Supreme Court decisions are based upon an inference of sovereignty?

Mr. McCORMACK. Exactly; the gentleman's understanding and mine are the same.

Mr. MOTT rose.

Mr. McCORMACK. I am extremely anxious to answer all questions but I want to at least briefly give my views to the membership.

On title I, one might honestly entertain some question about whether Congress can tax employees of a State or city engaged in essentially governmental functions, but we

can never have the question passed upon unless we pass this law.

[Here the gavel fell.]

Mr. McCORMACK. Mr. Chairman, I yield myself 1 more minute.

The Constitution uses the expression "income derived from any source," but there is no Supreme Court decision saying that any particular group of employees of a State or city are not subject to Federal income-tax laws, except inferentially. This bill, in a sense, is nothing but a reiteration of a law that has existed since 1926.

If you believe that all employees should be subject to an income-tax law, then title I should be voted for. The question of constitutionality you and I can never determine in our own minds unless we first pass a bill and then let the Supreme Court pass upon the question of whether or not the Congress had the power to enact such legislation into law. [Applause.]

[Here the gavel fell.]

Mr. COOPER. Mr. Chairman, I yield 15 minutes to the gentleman from Indiana [Mr. BOEHNE].

Mr. BOEHNE. Mr. Chairman, I shall decline to yield until I have concluded my statement.

Mr. MOTT. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. Does the gentleman from Indiana yield for a parliamentary inquiry?

Mr. BOEHNE. Yes.

Mr. MOTT. I want to inquire if the gentleman is declining to yield just for the moment or whether he declined to yield at any time?

Mr. BOEHNE. I think I shall use up my entire 15 minutes, I may say to the gentleman.

Mr. Chairman, on April 25 of last year, and again on January 19 of this year, the President of the United States urged the Congress to correct what he termed were obvious injustices in personal income taxation. His last message included the possibility of enacting legislation, which had for its purpose three things:

First, to remove the exemption either from Federal or State income tax, such income as interest from Federal, State, or municipal obligations;

Second, to remove similarly the exemption of income, whether it is received as compensation for services rendered to the Federal, State, or municipal Governments; and

Third, to prevent recent judicial decisions "from operating in such a retroactive fashion as to impose tax liabilities on innocent employees and investors for salaries heretofore earned, or on income derived from securities heretofore issued."

The Committee on Ways and Means, after due deliberation, recommended to the House that the second and third of these three propositions be taken up immediately, and that the other, namely, the removal of the exemption from income tax of interest from Federal, State, and municipal obligations be afforded a more detailed study. It is quite possible that this latter study and enactment will evoke considerable objection from many fronts, and it was felt that it was important enough to be treated separately.

I shall address myself only to title I of the bill under consideration, which deals with reciprocal taxation between the United States Government and the several States as regards the salaries of the employees of these governments. I shall not discuss title II, but will leave that to those members of the committee and others who may be better equipped to explain the questions involved, as well as the legal questions involved in both titles.

In plain, ordinary language, title I simply says that the Government of the United States proposes to exercise its constitutional power as given to it under the sixteenth amendment "to tax income from whatever source derived," which means that the income-tax laws of the Federal Government will, after the effective date stated in the bill under consideration, be applicable to all employees of States, counties, and municipalities. In exchange, the Federal Government under

section 3 of title I gives its consent to the taxation by the various States who have income-tax laws for personal services as an officer or employee of the United States. To put it very specifically and even more bluntly, title I will levy an income tax on all employees of the State of Indiana, and all of its governmental subdivisions, and then gives to the State of Indiana the right to levy a gross income tax on all employees of the Federal Government, whose residence is in the State of Indiana.

I doubt if there is a Member of Congress who has not received some time or other letters from constituents bemoaning the fact that we are rather lavish with the funds of the taxpayers of the United States and at the same time have exempted ourselves from the payment of any income tax whatsoever. I hope that every Member who speaks on this legislation today, either in support of it or in opposition to it, will stress the fact that not a single Member of either branch of Congress has ever or is now exempted from the payment of income taxes. It is surprising that many well-informed editors of the daily press often deride Members of Congress on this score. They would be doing a great service if they would sublimate their own intelligence to the degree of getting correct information about what they write in connection with income taxes. If they would do this, then we, as Members of Congress, would not be required to correct them either through our own correspondence or here on the floor of Congress.

It is true that Federal employees now do not and are not required to pay income taxes to the States in which they reside, and it is likewise true that State, county, and city employees, which include every person from the Governor to the lowest-paid appointive officer in a city, do not and are not required to pay a Federal income tax. It is this inequality that title I proposes to correct. It is an inequality because every other citizen of States where a State income tax is in effect is required to pay both Federal and State income taxes.

Thirty-one of the forty-eight States of the Union impose State income taxes on their citizens, which leaves 17 States imposing no income tax on wages and salaries. As the Under Secretary of the Treasury, Mr. Haines, testified before the committee, any State or local employee chancing to live in any one of the 17 States is entirely tax free as far as their salaries are concerned.

We will no doubt be advised that this additional tax burden will work hardships on the small-salaried groups within States. Already letters have been received from minor employees that to subject them to additional tax would be a burden which they had neither anticipated nor as a matter of fact could afford to pay. To these and to the country at large I would like to give some figures which are very interesting, indeed.

It may not be entirely germane to this discussion to give to you the number of all employees of all governmental units in the United States. These figures are not only interesting but they also show the tremendous increase during the past few years. Naturally, the thought comes to many of us that this appalling figure should begin to show a gradual reduction. For example, in 1929, the total number of employees of all governmental units was 3,123,000; in 1930 it increased to 3,229,000; in 1931 it increased to 3,265,000; in 1934 the number was 3,337,000; and in 1937 it was 3,764,000. Thus, in this 9-year period the number has increased 641,000, or almost 21 percent. During the same period the total compensation increased from \$5,386,000,000 to \$5,669,000,000, or an increase of approximately 5 percent. The next interesting figure shows that the average wage has decreased during the same period from \$1,725 to \$1,503, or approximately 13 percent.

To break down the average wage, permit me to give you the figures for the year 1936, compiled by the National Income Section of the Bureau of Foreign and Domestic Commerce, by citing to you the number of employees in State and local governments. Take only the largest item, namely, that of public education. In the year 1936, under public education, there were 1,187,576 employees whose average wage was \$1,244 per year. With an exemption of \$1,000 for unmar-

ried persons and with an exemption of \$2,500 for married persons, it does not take a certified public accountant to recognize that the imposition of a Federal income tax on those salaries will amount to very much.

It is my understanding that by the passage of this bill only about 6 percent of all State and local employees will fall into the category of Federal income-tax payers. The committee was also advised that the best estimate that the Federal Treasury could give as to the probable revenue to be derived in this manner would not exceed \$16,000,000 per year.

Therefore, you can readily see that this bill is not one to radically increase the revenues of the United States, nor that it is increasing the tax burden of those who are now paying into the Federal Treasury. Rather it is taking away the preferred status which governmental employees outside of the Federal Government have enjoyed ever since the adoption of the sixteenth amendment. Because a person has been appointed or elected to a public office is no reason why he should be placed in a preferred class. It may not be too much to hope that when all public employees will be obliged to pay their just share of the cost of government, that they then will also see the justice in the argument of the great majority of American people that the cost of government is entirely too high and that a curtailment is necessary now.

I think it can be generally agreed that even though governments have a distinct responsibility to the people, whom they serve, they cannot long endure when outgo exceeds income year after year. If we can bring every public officeholder to realize this by taxing his own salary to the limit of the law, such employees will insist that a proper balance between income and expenditure be maintained at all costs.

Of course, there will be opposition to this legislation, and it will be based upon constitutional grounds. There will be further opposition from those, who will fear the wrath of the few people who will be added as taxpayers of the Federal Government. In spite of this, however, it seems to me that no reasonable objection can be raised against any legislation that is designed to correct an inequity. Certainly the inequity is present today, and this legislation will correct it. [Applause.]

Mr. TREADWAY. Mr. Chairman, I realize that there is marked opposition to this measure on the Republican side. I have advocated the principles of this bill for a long time, and while the form in which it comes before the House does not please me, because I believe a constitutional amendment is the proper manner in which to deal with this subject, nevertheless I expect to support the bill. However, in view of my associates requiring more time than can be allotted them, I feel that I should yield to them rather than consume any time in favor of the measure myself. Therefore I ask unanimous consent to extend my remarks in the Record at this point, and I shall yield my time to various Members.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. TREADWAY. Mr. Chairman, my views upon the matter before the House are of long standing. I am not a recent convert to the proposition of eliminating tax-exempt bonds and tax-exempt salaries.

For many years I have had pending in Congress a constitutional amendment for this purpose, but, unfortunately, I have not been able to secure consideration of the subject matter. Now it is proposed to deal with the matter of eliminating tax-exempt salaries by direct legislation, without resorting to the amendment method.

On December 18, 1937, some months before the President's first message on the subject before us was sent up here, I stated:

The time has arrived when some action should be taken to remedy the situation not only with respect to tax-exempt securities but also with respect to tax-exempt salaries.

At that time the indication was that the amendment method was the only means by which this could be done.

Since that time the Supreme Court has decided the Gerhardt case, involving the employees of the New York Port Authority.

In that decision the Court adopted certain reasoning in holding the port authorities taxable that could be applied generally to all public employees, namely, that the effect of subjecting them to nondiscriminatory taxation did not impose a burden on the State itself.

Inasmuch as the immunity of public employees from taxation does not rest upon any express constitutional provision, but from an implied immunity supplied by the Court, it is quite probable that if the question is squarely presented to the Court it would reexamine the whole immunity doctrine and reverse its previous decisions in the matter, at least insofar as they relate to taxation of a nondiscriminatory character.

I have never felt that by subjecting State employees to the same taxes that other citizens of the United States must bear there is any danger to the continued existence of the sovereign States. Likewise, the taxation of Federal employees by the States, at the same rates paid by other citizens, in no way threatens the existence of the Federal Government. This is substantially the view now taken by the Supreme Court in the Gerhardt case.

So far as the effect of the bill on State and municipal employees themselves is concerned, I may say that, because of the existing exemptions under Federal income tax laws, only about 6 percent of the total number will have to pay Federal income tax, and the total amount of revenue involved is only \$16,000,000.

Last year, after the President submitted his first message on the question of tax-exempt bonds and salaries, I stated to the House that if the problem of tax exemption could be dealt with by legislation alone I would be glad to support the President's proposal. I further stated that I nevertheless believed that the best and most certain way to handle it would be by the submission of a constitutional amendment to the States. While, as I have said, I shall support the pending bill, I still feel that the amendment method is the better of the two methods of dealing with the question.

It has been held out that there is an emergency requiring the early passage of the pending bill, and that has been the excuse for haste. However, the only real emergency is with respect to title II, relating to the possibility of retroactive taxation of certain State and municipal employees under the Gerhardt decision. It is necessary to have the situation clarified before March 15 as to just what State and municipal employees are affected by the Gerhardt decision. It is also necessary to take steps to prevent the retroactive collection of taxes from any State employees who heretofore have been considered exempt from Federal income tax, but who might come within the purview of the Gerhardt decision.

I would strongly favor the separation of the two titles, with a view to passing the retroactive feature at this time and deferring consideration of title I until further study has been given to the matter.

I shall vote for an amendment to strike title I from the bill, but if it is retained I nevertheless expect to support the bill on final passage.

Mr. Chairman, I yield 7 minutes to the gentleman from New Jersey [Mr. McLEAN].

Mr. McLEAN. Mr. Chairman, in the limited time at my disposal I shall address myself to only one reason why this measure should not pass. In the consideration of this bill we are considering principles we will be called upon to apply very soon to other legislation which will come before us. Emphasis will be laid upon the fact that this is only to tax employees of the States and the Federal Government, but the principle involved extends much further than that. When the income-tax amendment was proposed in 1910, there existed the immunity rule governing taxation of the States by the Federal Government, and of the Federal Government by the States. It may be found in the report of the case of *Collector v. Day* (11 Wall. 113). It is this:

It is admitted that there is no express provision in the Constitution that prohibits the General Government from taxing the means and instrumentalities of the States, nor is there any prohibiting the State from taxing the means and instrumentalities

of that Government. In both cases the exemption rests upon necessary implication, and is upheld by the great law of self-preservation, as any government, whose means employed in conducting its operations, if subject to the control of another and distinct government, can exist only at the mercy of that government.

That, gentlemen, is what is known as the immunity rule. It prevents a State government from taxing the instrumentalities of the Federal Government and prevents the Federal Government from taxing the instrumentalities of a State government. And it has been the law of this land and it has been a part of our constitutional system ever since the decision of the great Chief Justice Marshall in the case of *McCulloch against Maryland*, one of the classics in American constitutional law. It was in that case that Daniel Webster, as one of counsel, created the phrase that "An unlimited power to tax involves necessarily a power to destroy." That language was adopted by Chief Justice Marshall in the case of *McCulloch against Maryland*, and that case illustrates how the power to tax can be used by any government to destroy the instrumentalities of another.

The enactment of this measure will violate a compact between the Government of the United States and many of the States. You will not find such a compact in any written instrument. You will not find any convention that created it, but you will find it in the correspondence between Elihu Root and the president of the Senate of the State of New York, published in volume 45, part 3, of the CONGRESSIONAL RECORD, at page 2539, and you will find it in the CONGRESSIONAL RECORD, volume 45, part 2, page 1694, in the observations of the great Senator from Idaho, WILLIAM E. BORAH. Both were United States Senators at the time and were urging the adoption of the income-tax amendment.

Senator BORAH addressed the Senate for an hour or more for the purpose of assuring the Governors of the States that the sixteenth amendment would not change the immunity which essential State agencies had from Federal taxation. At that time it was proposed by the Congress, in order to provide additional revenue, that the machinery of taxation should be facilitated by the removal of the limitation that taxes should be apportioned among the States. In other words, the income-tax amendment was proposed to facilitate the collection of taxes by the Federal Government. The Governor of New York, now the Chief Justice of the Supreme Court of the United States, expressed the opinion that the use of the words "from whatever source derived" might give the Federal Government the right to trespass upon the immunity law and that under it instrumentalities of the States might be taxed by the Federal Government and their existence threatened. Mr. Root explained that the immunity law had always been the law of the land, and always would be, and would not be affected by the proposed amendment, and on the assurances given at that time by these two great Senators, the State of New York, and perhaps other States, adopted the amendment giving the Federal Government the power to tax incomes. And we have lived under that understanding and agreement ever since. Today, if we pass this law, we violate that assurance and that understanding. I am not saying that I do not favor the taxing of State employees in the manner proposed, but what I do say is that when the Congress of the United States obtains the approval of a constitutional amendment by a sovereign State with an understanding such as existed when the sixteenth amendment to the Constitution was adopted, then the only way to change the resulting situation is by the same solemn method, and what the Congress of the United States should do, if it keeps faith with its sisterhood of States, is to present this proposition through a constitutional amendment, and allow the States to determine if that situation should be altered. [Applause.]

Mr. TREADWAY. Mr. Chairman, I yield 7 minutes to the gentleman from Michigan [Mr. Wolcott].

Mr. WOLCOTT. Mr. Chairman, we are asked today to discuss in 3 hours a matter on which days and weeks and months have been consumed throughout the history of this Nation. At least one of the two major political parties of this

Nation was founded upon the doctrine of State sovereignty and State independence. That question is immediately before us in this particular bill. I presume, because of my defense of the sovereignty and independence of the States of this Union, I may be known as a State rights Republican; but to my knowledge the Republican Party has never advocated the destruction of the sovereignty of the States by force of the Federal power to tax, or otherwise.

This bill, according to the gentleman from Massachusetts [Mr. McCormack], presents solely a legal question. I think that Members on both sides probably sense that there are certain inequities and that they can be removed. Government functions are becoming more complex every day, and there should be some general rule laid down for reciprocal taxation if it can be done within the Constitution; but it is not the province of this Congress to violate its collective oath of office, taken on the first day of the convening of this Congress, to do that. The courts have already laid down certain rules and applied them. I am firm in my conviction that in none of the decisions which has been handed down—and I refer especially to the case of *Helvering against Gerhardt*—do I find any recent change in the long line of opinions by the Supreme Court that where an officer or employee of a State is engaged in a function which is indispensable to the maintenance of the sovereignty and independence of that State, the Federal Government has no constitutional right to tax that individual. [Applause.]

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. WOLCOTT. No; I cannot.

If the Congress of the United States, under those decisions, *McCulloch*, *Day*, *Gerhardt*, and as late as the *Stillwell* case handed down by the Seventh Circuit Court of Appeals, in which it says that the *Gerhardt* case does not change or amend or modify in any respect these earlier decisions, should pass this bill, it would violate its oath of office.

The only point I can make in these 7 minutes allotted to me is this: That if there is a constitutional prohibition against the levying of taxes against a State official it can only be changed by a constitutional amendment. I will take as an outstanding example a secretary of state. There should be no question but that he is involved in an indispensable State function. We by this act seek to tax the salary of a secretary of state. The United States Supreme Court in all the decisions say that we cannot do it under the Constitution. Therefore, you ask us to do something in this bill in direct violation of the oath of office which we took on the first day of this session, without any mental reservation whatsoever to uphold that Constitution. We have an obligation. We have responsibilities when questions like these come up, and it is our duty to submit those questions to the people for amendment to that Constitution.

When there is reasonable doubt as to the constitutionality of any bill which we may pass here, it is our constitutional duty to uphold the Constitution and to vote against that bill. I refer to a very recent occasion when we were asked to pass a certain bill, regardless of the reasonableness on any doubt as to its constitutionality. Immediately there was a surge of popular resentment against the action of Congress in passing an act which it reasonably concluded to be unconstitutional. You gentlemen today who denounced that action in respect to the Guffey coal bill are putting yourselves in a very incongruous position by voting for this bill. [Applause.] How can you denounce the one and justify the other? You just cannot do it, and if there is any question about whether the Supreme Court stands today where it always has stood with respect to taxation by the Federal Government of the salaries of State officers and employees, I want you to read those cases as I have read them, and as others who have read them who are interested in this fundamental question. There is a fundamental question involved in this bill. It is a question as to whether the dual system of democratic government under which we have lived for 150 years will be preserved. I for one will not vote to let the camel, who in this case is the Federal Government, get his head under the tent, which in this case is the State government. Once you let him get his head under there he may destroy the whole system. Now,

I do not say there is any danger of the destruction of this dual system of democratic government by this act standing alone; but we do know that we will be establishing a precedent whereby, because the power to tax involves the power to destroy, regulate, or coerce, future Congresses may think they have a constitutional prerogative to pass bills which may be destructive.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. TREADWAY. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. HINSHAW].

Mr. HINSHAW. Mr. Chairman, I must decline to yield.

Mr. Chairman, I am not here to express doubt as to the constitutionality of this measure; I am here to express the views of those in my district who believe that this measure is so important, so fundamental, that it should be placed before the people by constitutional amendment. I am not here to express myself provincially, but there is in the legislature of my fair State a member of French-Canadian descent who on numerous occasions rises on the floor and says in loud tones, his arms far-spread out to the side: "There is too golden many lawyers in this assembly; there should be more of the common people."

I am one of the common people, and I highly respect the views of the lawyers in this gathering here, especially those who have studied the subject, as has my predecessor in this Well.

The committee report states that this bill provides in a clear and unequivocal manner for such taxation. I am speaking of title I. If there are any possible doubts as to the validity of this taxation, the bill thus enables the issue to be squarely presented to the Supreme Court. In this connection I shall read to you a portion of a resolution adopted by the city council, known as the city board of directors of the city of Pasadena, Calif., my home town. Remember as you hear this that these gentlemen are paid the munificent salary of \$50 per month. They are not themselves, therefore, involved in this legislation to any considerable extent. They speak on behalf of the people and of the city employees. They say in these resolutions:

Now, therefore, be it

Resolved by the Board of Directors of the City of Pasadena:

(1) Condemn as unfair, oppressive, and un-American the imposition of retroactive taxes upon the income from municipal bonds and municipal salaries;

(2) Condemn the unwarranted extension of Federal power and the weakening of local government through the taxation of income from municipal bonds to be issued in the future;

(3) Urge that if equitable and nonretroactive taxation of the income from municipal salaries hereafter be contemplated, such taxation be authorized only on the condition that the State be afforded the reciprocal right to tax income from the Federal salaries and from Federal securities;

(4) Are convinced that the radical change in relationship between local and Federal Government that is inherent in current efforts to tax municipal securities and salaries should be accomplished only by sanction of the people as a whole, expressed through well-considered amendment of the Constitution and not by judicial lawmaking.

Mr. Chairman, I hold in my hands a sheaf of resolutions substantially the same in purport and intent as that which I have just read. Among these are resolutions of the City Council of Glendale, Calif., City Council of the City of Los Angeles, a resolution of the Municipal Fiscal Officers of Southern California, a resolution of the League of California Municipalities, Los Angeles Fire and Police Protective League, the Civil Service Protective League, Los Angeles Water and Power Employees Association of the City of Los Angeles, and I also have letters and resolutions of similar import from many other individuals and associations, including associations and groups of school teachers and municipal employees in my district.

To the best of my knowledge none of these oppose the proposition of reciprocal taxation of salaries by Federal and State Governments, but almost without exception these resolutions and letters oppose such taxation by judicial legislation and favor the orderly process of submission of the question to the States through a suitable amendment to the Constitution of the United States.

It may be that this bill shall pass. If it does not, there have been introduced in this House many bills to prevent the retroactive application of any Federal tax upon the salaries of employees of the States and their instrumentalities. There have been introduced joint resolutions for submission of a suitable amendment to the Constitution, giving full authority to accomplish in a constitutional manner the present purposes of title I of this act—H. R. 3790.

I shall vote to defeat this bill, not because I am opposed to the reciprocal taxation of governmental employees by Federal and State Governments. On the contrary, I am in favor of the proposition, but I will so vote because I believe that this bill goes about the matter in the wrong way, and because, if it is defeated, there can then come upon the floor H. R. 1791, or another suitable resolution, to prevent the retroactive-taxation feature, and a resolution proposing a constitutional amendment, such as House Joint Resolution 106, which, upon being suitably prepared, should, in my judgment, be submitted to the States. [Applause.]

Mr. TREADWAY. Mr. Chairman, I yield 7 minutes to the gentleman from Illinois [Mr. DIRKSEN].

Mr. DIRKSEN. Mr. Chairman, when the distinguished gentleman from Massachusetts [Mr. McCORMACK] made the opening argument, the gentleman from Tennessee [Mr. COOPER] interpolated the statement that most of the editorial opinion and comment was in favor of this bill. There may be small comfort for those who read the Gallup poll in that it shows that 80 percent of the people interviewed stated they were in favor of this tax. If the Gallup poll question had been fairly phrased as to whether or not this tax should be imposed by methods that are of doubtful constitutionality, the answer would have been an overwhelming "no." [Applause.] That is what it would have been. The reason the Republican side of the House is filled up in the Seventy-sixth Congress in large part is because the people of this country are still mindful of the Constitution and the constitutional responsibilities of Members of Congress. You whose hearts are filled with a species of political trepidation today just bear that in mind and you can make your people understand it. There is probably no Member of this House who does not believe that there should be absolute equity and impartiality of taxation as between those in public office and those in private pursuits, but in this case, the question is whether it shall be done in conformity with the Constitution or by doubtful methods.

There are three reasons why I am against this bill in its present form. The first reason is that I do not believe the Congress has the power, and I am not going to vote for a bill to prohibit the Treasury from imposing a retroactive tax when I have not even admitted in the first place that they had that authority. [Applause.] That is what you are going to do. It seems quite elementary to me that one is not constrained to deny that which he does not admit. On the basis of present decisions, I do not believe the Treasury has authority to tax State salaries. Why should one vote to prohibit it from so doing?

They predicate this action on the case of Helvering against Gerhardt. I am not going into it at great length, but will just make this observation on the feature of constitutionality. That observation springs from the very recent case of Commissioner of Internal Revenue against Stillwell, decided by the Federal Circuit Court of Appeals for the Seventh Circuit, sitting in the city of Chicago. That decision was handed down in the January 1939 session. It deals directly with the authority of the Federal Government to tax a statutory State officer. In that case, the court carefully analyzed all Supreme Court decisions bearing on this matter and carefully pointed out in what respect such cases as Helvering against Gerhardt and Helvering against Threll were decided.

The justice who wrote that opinion was a respected Member of this Congress and sat on the Democratic side of the aisle. He was a very devoted servant of the administration when he was here, and you will remember him as J. Earl Major, of Illinois. Notwithstanding the Helvering against Gerhardt and other decisions, I shall content myself by

reading just a portion of this decision handed down in the seventh Federal circuit dealing with the effort of the Treasury to tax the fees of a master in chancery who was a statutory State officer who got his fees not from the State but from the litigants. There was not even a burden upon the State, let alone a substantial burden on which to determine the case. In commenting upon the decision in *Helvering* against *Gerhardt*, the court said:

We are unable to find any language in this (*Helvering v. Gerhardt*) opinion which appears to us as persuasive, and certainly there is none which is conclusive that a court officer, such as a master in chancery, should be denied immunity, and we think the source of the official compensation is immaterial. * * * It is worthy of notice that the court referred to and commented upon the case of *Collector v. Day* in as many as four instances. It would seem that if the court intended to place any limitation upon the doctrine as promulgated in that case it had every opportunity to so do. In place of doing so, we think it is a fair inference, even if not expressly stated, that the doctrine was reaffirmed.

That decision was rendered in the January term, 1939, by the Federal Circuit Court of Appeals for the Seventh Circuit, sitting in Chicago, Ill. That decision is a reaffirmation of the doctrine laid down in *Collector* against *Day* in 1870, and I cannot ignore that opinion, because it is well reasoned and logical.

Mr. Chairman, that is enough for me, coming from my own State, to vote against this bill. To ignore such a recent and forceful decision from my own State would be to ignore the whole question of constitutionality, and I would be derelict to my oath of office and remiss in my duty if I did so.

Secondly, so far as my State is concerned, and the other 17 that have no personal income-tax laws, there is nothing reciprocal about this measure. Within the State of Illinois, according to Treasury figures for 1937, there are 143,517 State, county, and municipal officers. Within the State of Illinois are 47,345 Federal employees who get their pay checks from the Federal Government. These Federal pay checks will aggregate about \$93,000,000 per year. Now, then, the latter will not have to pay a State income tax in Illinois because we do not have a State income-tax law and we cannot get one, due to the fact that, according to the best tax opinion, our constitution does not permit a classified income tax. However, the 143,000 State, county, and municipal employees will be taxed under the pending bill if they are within the taxable brackets, so that there is a unilateral rather than a reciprocal tax, with all the benefits accruing to the Federal Government and none to the State government. Certainly there is nothing reciprocal about that.

Mr. Chairman, I am not in favor of making one of the nurses in a State hospital pay a tax to the Federal Government and allowing a nurse in the veterans' hospital in Illinois to escape State taxation. I am not in favor of making a district attorney pay a tax to Uncle Sam and letting the Federal district attorney escape a State tax because we cannot put it on the books. I am opposed to making a chemist in the State water board pay a tax to Uncle Sam when we cannot tax a chemist who will be working in the United States research laboratory when it is built.

I am opposed to having Uncle Sam tax an employee of the State forestry service without a reciprocal right of the State to tax an employee of the Federal Forestry Service. A sheriff would pay a Federal tax under this bill but a G-man would pay no State tax. A doctor in the State health department would pay a tax under this bill, but a doctor in the United States Health Service would pay no tax to the State on his salary. Manifestly, that would be unfair and inequitable, and, for the moment, we are powerless to alter that situation by virtue of a constitutional inhibition.

Finally, and the third reason, I am not going to put myself on the spot when the sister bill comes in to tax State and local securities. Vote for this and you will have no logical reason not to vote for a bill to tax the revenue received from State and municipal securities. The long term bonded indebtedness in Illinois, State, local, and municipal, is about \$1,045,000,000 today. I have figured, and I think Professor Lutz, who is professor of public finances, of Princeton, has figured that ultimately if we seek to carry

an equivalent debt, which is taxable, it will cost the taxpayers of the State of Illinois \$11,000,000 a year more than it does at the present time. I am not going to saddle that kind of a burden upon the cities, counties, the State, school districts, sanitary districts, and the other taxing bodies of Illinois, because it is going to come out of the jeans of the taxpayer. Make no mistake about that. If you approve this bill today, how are you going to justify voting against a bill to put that kind of a burden upon State securities when that bill ultimately comes before this Congress? I believe the pending measure is just a forerunner to that bill. There is only \$16,000,000 involved in this one, but there is in it the principle, and forget not that the people of the country are still conscious of their Constitution. [Applause.]

Let me reaffirm that no Member of this House is averse to having county clerks, policemen, firemen, school teachers, mail carriers, Congressmen, and all other elective and appointive officials bear their same proportionate burden of taxation as every other citizen in the land. In fact, therein lies the appeal for the pending measure.

But until the separate States have assented to the imposition of taxes by the Federal Government through the medium of a constitutional amendment, it should not be done. The bill before us today carries in it a precedent which if followed to its logical conclusion may not destroy the States but may cripple and restrict them in the exercise of State and local functions to the point where the name of a State will be little more than a convenient way of designating a geographical area of this country. If you are ready for such an extreme departure in government, then support this bill. I shall oppose it.

Mr. COOPER. Mr. Chairman, I yield 10 minutes to the gentleman from California [Mr. Buck].

Mr. BUCK. Mr. Chairman, the opponents of this measure have apparently forgotten that the purpose of the proposed legislation is to clear up confusion as to the liability of State, Federal, and local employees with reference to taxation reciprocally by the States and the Federal Government. The gentleman from Illinois, who just preceded me, read at some length from a decision of the Circuit Court of Appeals for the Seventh Circuit. I call his attention and the attention of the minority and all of you, in fact, to a decision on exactly the same subject rendered last year in the case of *Saxe v. Shea* by the Circuit Court of Appeals for the Second Circuit (98 F. (2d) 83). One case dealt with the fees of a master in chancery; the other with similar fees paid to a referee or special guardian. Appointments were made by the court in each instance, and appellants were paid by court order out of the estate or fund under the court's control. Each case referred to both *Collector* against *Day* and *Helvering* against *Gerhardt* and the conclusions reached were directly opposite.

Justice Swan, speaking for the court in the second circuit case—*Saxe* against *Shea*—stated that:

In that opinion (*Helvering v. Gerhardt*) Mr. Justice Stone noted particularly that the immunity is narrowly restricted in cases where the burden of a tax, collected not from a State treasury but from individual taxpayers, is said to be passed on to the State. His language is as follows:

"In these cases the function has been either held or assumed to be of such a character that its performance by the State is immune from direct Federal interference; yet the individuals who personally derived profit or compensation from their employment in carrying out the function were deemed to be subject to Federal income tax."

He then proceeds to discuss two guiding principles of limitation for holding the tax immunity of State instrumentalities to its proper function, the second of which, exemplified by those cases where the tax laid upon individuals affects the State only as the burden is passed on to it by the taxpayer, "forbids recognition of the immunity when the burden on the State is so speculative and uncertain that if allowed it would restrict the Federal taxing power without affording any corresponding tangible protection to the State government."

Justice Swan further stated:

This limiting principle we believe to be controlling of the case at bar. None of the appellant's compensation came from the State treasury; it was paid by the parties litigant or out of an estate under the court's control. By no possibility can the imposition of the tax increase to the State the cost of administer-

ing justice; conceivably an income tax upon the salary of a judge paid from the State treasury may require the official's salary to be correspondingly raised in order to obtain his consent to serve and thereby increase the cost to the State of its judicial department. But this cannot happen in the case of a referee or special guardian whose compensation is paid by the litigants.

Mr. Chairman, when we have two decisions as conflicting as these are with reference to special officers appointed by a court, it seems to me it is clearly within the province of this body to lay down what it considers should be the rule. This is only one example of conflict in our jurisprudence and I cite it solely to answer the argument of the gentleman from Illinois. But it does indicate that we should pass legislation to permit the Supreme Court to definitively rule on the general subject.

Mr. MICHENER. Will the gentleman yield?

Mr. BUCK. I yield to the gentleman from Michigan.

Mr. MICHENER. The gentleman realizes that the decisions of a particular circuit court of appeals control the courts within that circuit. If there is a decision in the second district and another decision in the seventh district, the Government has the right to appeal either one of those decisions and bring the matter to the Supreme Court to be settled, just exactly as it is claimed the Government is doing in the Bridges case. The gentleman's statement is on all fours, so far as procedure is concerned, with the Bridges and the Strecker case.

Mr. BUCK. Just a minute. I yielded for a question. The gentleman can get time of his own.

Mr. MICHENER. It seems to me that is very important. The gentleman takes the position that Congress should act rather than let the Court act on the facts.

Mr. BUCK. The gentleman realizes and knows as well as I do that if either of these decisions goes up to the Supreme Court a decision will be rendered only on the particular facts involved.

Mr. MICHENER. The gentleman said the cases were on all fours.

Mr. BUCK. They are. The cases involved fees of court appointees in litigation before the respective courts. If either of the cases goes up to the Supreme Court, that is all that will be decided. Those of us who have presented this bill believe it is important that a decision be reached on the general, fundamental, underlying principle. Those who have opposed this bill, as the gentleman from Michigan may, quite conscientiously, no doubt—

Mr. MICHENER. No; I am very much in favor of the purpose of the bill. The only thing that stands in the way at all is the constitutional part. I do not know yet just how I am going to vote.

Mr. BUCK. I am sure I should like to illuminate the gentleman's mind on that.

Mr. MICHENER. That is what I am trying to find out.

Mr. BUCK. The value of an affirmative decision by Congress on the question of Federal taxation of officers of States and their subdivisions lies in the fact that the tax would be supported by the presumption of constitutionality attaching to a law passed by Congress and passed by its deliberate judgment after debate. Passing this bill will remove any argument that Congress intended the revenue act as it now exists to be construed in the light of past judicial precedents or Treasury regulations of the past.

The decision on which those who argued against this bill in committee rested most conclusively was the old case of Collector against Day, decided in 1870. Since that time we not only have ratified the sixteenth amendment, which provides that Congress may levy taxes on incomes from whatever source derived but in the income-tax law of 1926 we forgave all past assessments against State, city, and municipal employees, thereby implying that they should have been levied against them—they had been so levied against some. Congress put broad language into that act under which, undoubtedly, except for the Treasury regulations which have been adopted since and the judicial precedents heretofore created, the Bureau of Internal Revenue could go out and

levy, assess, and collect Federal income taxes against these State employees.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. BUCK. I yield to the gentleman from New York.

Mr. CELLER. I sympathize with the gentleman's point of view, but does the gentleman believe it is fair just to lift out of the text of the sixteenth amendment the words "from whatever source derived" and say the sixteenth amendment means you can tax any kind of income or any kind of instrumentality? Does not the gentleman believe it is fair to take into consideration all the circumstances out of which the sixteenth amendment sprang? Was not the primary purpose of the sixteenth amendment to take out the so-called apportionment, which was unworkable? Was not the Governor of the State of New York, Governor Hughes, assured that it did not mean what the Governor is saying now? The Governor was so assured solemnly by Senator BORAH and by Senator ROOT, of my State.

Mr. BUCK. The gentleman has asked about six questions there, and I know he will have time of his own later to discuss them. I have not time enough now to cover them.

Mr. CELLER. I am going to vote for the bill. I sympathize with the gentleman.

Mr. BUCK. Whatever was the interpretation of the sixteenth amendment and whatever were the circumstances under which it was adopted, the language is there, "from whatever source derived," and as to this particular situation taxation of State employees engaged in essential governmental functions; it has never received a final judicial interpretation. In other words, a case arising under this bill, if it becomes law, will go to the Supreme Court under entirely different circumstances, and I know the gentleman will agree with me on that—

Mr. CELLER. The gentleman is correct.

Mr. BUCK. It will go to the Supreme Court under different conditions than any other case that has been before the Court for an interpretation of the meaning of the sixteenth amendment.

May I say that beyond that, the retroactive features we have put in the bill avoid any appeal based upon the due-process clause, and when we add the provision found in section 3 waiving immunity of Federal employees from State income taxation we have eliminated any question of a discriminatory tax being placed upon State and municipal employees.

Mr. CELLER. If the gentleman will yield further, does the gentleman believe that Collector against Day is still the law or has it been reversed in any particular? I am curious about this because so much depends on it.

Mr. BUCK. Collector against Day has never been expressly overruled. It must be remembered it arose under a Civil War tax law, however, not the sixteenth amendment, and was decided in 1870. There are intimations in the Helvering against Gerhardt decision and the decision immediately preceding it, that the Court would be glad to reexamine under new circumstances the principles laid down in Collector against Day.

Mr. CELLER. As I recall the Gerhardt case, Judge Stone seemed to imply beyond peradventure of a doubt that Collector against Day was still the law of the land, and that he would not depart from it. In many instances they mention in that very case the case of Collector against Day, and under no circumstances do they seek to whittle away the import of Collector against Day. This is what troubles me, and I should like to get some enlightenment on the point.

Mr. BUCK. In the Gerhardt case the Court went to great lengths to distinguish between an officer and an employee. Was not this due to a desire to refrain at that time from examining Collector against Day? Every reason advanced by the Court in that case to refuse immunity to the State employees may well apply to a State officer.

Since the Court obviously refrained from approving Collector against Day, it is at least reasonable to believe that the Court may well consider that the Federal taxing power

can reach officers as well as employees of a State. It is begging the question to ask if Collector against Day has been overruled. There has been no opportunity to overrule it, or reconsider it so far, and there will be none unless this legislation is passed. We should allow the Supreme Court to review the case and refresh its consideration of the fundamental principles involved by enacting this law.

Mr. TREADWAY. Mr. Chairman, I yield 7 minutes to the gentleman from New York [Mr. WADSWORTH].

Mr. WADSWORTH. Mr. Chairman, I am not competent to discuss and to analyze the judicial opinions relating to the constitutionality of this proposal or similar proposals, and therefore I shall not attempt to do so. I wish to approach the question more from the standpoint of the soundness of the governmental structure. I believe laymen can understand a question of that kind, and that it should be made clear.

The gentleman from Indiana has stated, as I recollect, that if the Federal Government were to impose income taxes upon the employees of States and their subordinate divisions only about 6 percent of those State and municipal employees would be actually affected and a total of only \$16,000,000 of revenue would accrue to the Federal Government as a result of this.

So, Mr. Chairman, for an objective which is pitifully trivial, we are asked to change our form of government. A pitifully trivial objective is to tempt us to accomplish, in effect, a revolution in the relationship which has existed between the Federal Government upon one side and the States upon the other for over 150 years. [Applause.]

Now, let us look into this for a moment. Our Federal Union of States, I think, is the only one of its kind in the world. We have been careful during all these generations to preserve this system of dual sovereignty. The Federal Government possesses sovereignty granted to it originally by the sovereign States, and in the exercise of that sovereignty, which is high and important, it performs its functions and its services. Each State in the Union possesses sovereignty, and in the exercise of it performs functions and services which the Federal Government cannot perform and which each State by right performs.

The Governor of the State of New York, an officer of the State, performs certain services imposed upon him by the constitution of the State and by the laws of the State. When he does so he is not acting and living as an individual, he is acting and living as an officer of a sovereign State and every act of his is the act of the agent of the sovereign. You propose, under title I of this bill, to tax the agent of the sovereignty of New York. You propose to tax the governorship of New York and in the same breath, you propose in this bill to permit the State of New York to tax the Presidency of the United States, for you provide that the State of New York shall have permission to turn around and tax any Federal employee residing in her borders. It so happens, and I merely use this as illustrative, that the present occupant of the White House resides in the State of New York.

Have we reached the point in our governmental evolution, if I can use that phrase, where the Congress of the United States declare the doctrine that the State of New York, as such, can tax the Presidency of the United States? If so, we have accomplished a revolution in the relationship between two sovereignties.

Mr. CELLER. Mr. Chairman, will the gentleman yield? How does that attack the sovereignty of either the State of New York or the United States? The tax would have to be equally apportioned and would have to be equal under all similar circumstances. If the President of the United States gets \$75,000 a year, everybody else getting that same amount would be taxed in the same way.

Mr. WADSWORTH. It makes no difference what the rate of the tax is. It may be only a penny out of a thousand dollars; it is the principle involved.

Mr. PATRICK. Mr. Chairman, will the gentleman yield?

Mr. WADSWORTH. I cannot yield; I only have a few moments.

You will have set up an amazing state of affairs, and you are doing it to achieve an objective of trifling proportions.

Now, the thing does not stop here with salaries, as other men have said upon this floor. If the House of Representatives is to give its support to this measure, as a matter of consistency and logic, the House of Representatives must give its support to the measure still to follow which would impose a Federal tax upon the income from State and municipal bonds. [Applause.]

[Here the gavel fell.]

Mr. COOPER. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. COCHRAN].

Mr. COCHRAN. Mr. Chairman, I welcome an opportunity to support this legislation. The gentleman from New York [Mr. CELLER] said a few moments ago that the Judiciary Committee of this House has had this matter under consideration for approximately 15 years. I did not know it was that long, but I do know that I introduced what I thought was the first resolution 8 or 9 years ago to bring about what this bill seeks to accomplish. I never was able to get the action from the Judiciary Committee that I desired.

This bill results from recent decisions of the Supreme Court which indicate that the Congress has the right under the sixteenth amendment to do what the Court had said in the past it could not do. Now, there is more involved in this resolution than simply State and Federal employees, and I am going to cite two outstanding examples.

Mr. WOLCOTT. Mr. Chairman, will the gentleman yield?

Mr. COCHRAN. In just a second.

In my own State we had an insurance case which involved millions and millions of dollars. The insurance commissioner employed several attorneys and assigned them as his legal representatives in connection with the case. None was employed by the State. I do not know the exact amount, but I do know that fees involving almost \$500,000 were paid to four or five men as the result of this employment and only 2 weeks ago they were here in Washington before the Board of Tax Appeals contending that as they were employed by an instrumentality of the State of Missouri they were, in effect, State employees and the fees they received in connection with that case were not subject to the Federal income tax law. Now another matter. I do not know whether anyone has discussed what happened in reference to the decision with respect to an engineer, I think it was, who had received fees from the Port of New York Authority. The Supreme Court rendered a decision in this case and immediately following the decision the legal adviser of a great banking association sent a letter to the officials of the banks, members of the association, in which he told them that in his opinion, after thoroughly analyzing the decision of the Supreme Court, all the officials and employees of those banks that were members of the Federal Reserve System were not subject to the State income tax, because he held that the Federal Reserve System, of which their banks were members, was an instrumentality of the Federal Government.

Mr. WOLCOTT. Mr. Chairman, will the gentleman yield?

Mr. COCHRAN. I regret I only have a few minutes. Mr. Chairman, I was never interested in a piece of legislation since I have been a Member of this House that has been more universally praised throughout the country in the news columns, and the editorials of our great metropolitan papers, than the effort to equalize the tax burdens by requiring State employees to pay a Federal income tax and the Federal employees to pay State income tax. The only complaint I ever received was an anonymous communication, and it evidently came from one who would undoubtedly be required to pay a State income tax.

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. TREADWAY. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. GIFFORD].

Mr. GIFFORD. Mr. Chairman, I always enjoy following the gentleman from Missouri [Mr. COCHRAN]. I understand they have an income tax in Missouri of only 1 percent. He would get by easily, would he not? One hundred dollars and the deductions might make it even less. In Massachusetts the rate is 6 percent—a tax of \$600, but I do not personally

worry about that, because under the New Deal treatment my losses and deductions are so heavy that I would not have to pay enough to give me concern. But we pay plenty of other kinds of taxes. What a vast difference there will be in the treatment accorded in your various States. Some of you will hear later from your several States, because this bill will prove to be anything but reciprocal. Varieties of classes of incomes may be possible, and we find that municipalities often tax salaries as well as the States themselves. I once served on a tax committee to revalue real estate, and to tax salaries on income over \$2,000. Our difficulty was to find out how much the salary or the income might be when no compulsory returns were required. There is no trouble about finding about the salary of public officials. In one instance, although the town was a rather large one, we found only one Federal official of a taxable status, and guessed that a couple of doctors might be assessed, because they appeared to enjoy lucrative practices. We dared not guess further. Federal salaries will be a good thing to have in some local municipalities in States that have no income tax. I invite you new Members to read the debate of January in 1923, when we were placed on record regarding a constitutional amendment for reciprocal taxes after long debate; it will be very illuminating.

Read that record and note that only 13 Democrats voted for it. It will present a very different picture. You would not recognize the Democratic Party of today. They suggest that reciprocal taxation of tax exempts may follow, but if we read that debate we suspect that they might fall in line and follow their former leaders, like Garrett of Tennessee and others who strenuously opposed the idea. There is much in this debate today that might be regarded as demagoguery. The proposition is now before us because of the feeling that the Supreme Court is now so constituted that former decisions may be overruled. Apparently it was not presented before because of the belief that it would certainly be declared unconstitutional. Let me close by repeating that I do not worry about my own tax, for so long as the New Deal is in power I shall be unable to prevent losses and shall not be subject myself to any great amount of tax. [Laughter and applause.]

MR. TREADWAY. Mr. Chairman, I yield 5 minutes to the gentleman from Vermont [Mr. PLUMLEY].

MR. PLUMLEY. Mr. Chairman, I am opposed to the enactment of this legislation. In my judgment it is just as futile for Congress to enact this type of revenue-producing legislation prior to the adoption of a permissive constitutional amendment as it was for Congress to enact the original Federal income-tax law, prior to the adoption of the sixteenth amendment.

I am convinced that the Federal Government can neither impose nor collect such a tax as is proposed, lawfully, without a constitutional amendment.

I recall, as do some of you, the historic debates incident to the adoption of the sixteenth amendment, in which the distinguished Senators Root and Borah and Brown and Bailey and others were participants. What was said then with respect to that amendment is applicable to the present situation, and it may well be repeated that such legislation as is presented to us for consideration does "violence to the rules laid down by the Supreme Court for a hundred years," and if enacted would "wrench the whole Constitution from its harmonious proportions and destroy the object and purpose for which the whole instrument was formed."

In a long line of judicial decisions it has been held over and over again, either specifically or impliedly, that Congress possesses no constitutional power or authority to levy such taxes as are contemplated by this act.

The first 10 amendments to the Constitution, commonly known as the Bill of Rights, were adopted in order to quiet the apprehension that, without some such declaration, the Government would assume, and might be held to possess, the power to trespass upon those rights of persons and property, which by the Declaration of Independence were affirmed to

be unalienable rights (*Monongahela Nav. Co. v. U. S.*, 148 U. S. 312, 324 (1893)).

They were not intended to lay down any novel principles of government, but simply to embody certain guaranties and immunities which we had inherited from our English ancestors, and which had from time immemorial been subject to certain well-recognized exceptions arising from the necessities of the case. In incorporating these principles into the fundamental law there was no intention of disregarding the exceptions, which continued to be recognized as if they had been formally expressed (*Robertson v. Baldwin*, 165 U. S. 275, 281 (1897)).

The tenth amendment to the Constitution states:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people.

The scope and purpose of this tenth amendment is cogently set forth by the Supreme Court when it says:

The reservation to the States, respectively, can only mean the reservation of the rights of sovereignty which they respectively possessed before the adoption of the Constitution of the United States, and which they had not parted from by that instrument (*Gordon v. U. S.*, 117 U. S. 697, 705 (1884); see also *United States ex rel. Turner v. Williams*, 194 U. S. 279, 295 (1904); *United States v. Butler*, 297 U. S. 1 (1936)).

The men who drew and adopted this amendment had experienced the embarrassments resulting from the insertion of the word "expressly" in the Articles of Confederation, and probably omitted it to avoid those embarrassments. (See *McCulloch v. Maryland*, 4 Wheat. 316, 404 (1819).)

This amendment * * * disclosed the widespread fear that the National Government might, under the pressure of a supposed general welfare, attempt to exercise powers which had not been granted. With equal determination the framers intended that no such assumption should ever find justification in the organic act, and that if in the future further powers seemed necessary they should be granted by the people in the manner they had provided for amending that act. * * * Its principle purpose was not the distribution of power between the United States and the States, but a reservation to the people of all powers not granted (*Kansas v. Colorado*, 206 U. S. 46, 90 (1907)).

And, while it is confessedly difficult to mark the precise boundaries of that power, or to indicate, by any general rule the exact limitations which the States must observe in its exercise, the existence of such a power in the States has been uniformly recognized by the Supreme Court. (See *Keller v. United States*, 213 U. S. 138 (1909), citing *Patterson v. Kentucky*, 97 U. S. 501 (1879); *Gibbons v. Ogden*, 9 Wheat. 1 (1824); *Thurlow v. Massachusetts* (license cases), 5 Howard, 504 (1847); *Gilman v. Philadelphia*, 3 Wall. 713 (1866); *Henderson v. New York*, 92 U. S. 259 (1876); *Hannibal & St. J. R. Co. v. Husen*, 95 U. S. 465 (1878); *Boston Beer Co. v. Massachusetts*, 97 U. S. 25 (1878).)

It is a familiar rule of construction of the Constitution of the United States that the sovereign powers vested in the State governments by their respective constitutions remained unaltered and unimpaired, except so far as they were granted to the Government of the United States. That the intention of the framers of the Constitution in this respect might not be misunderstood this rule of interpretation is expressly declared in the tenth article of the amendments (*Buffington (Collector) v. Day*, 11 Wall. 113, 114 (1871)).

And such article added nothing to the instrument as originally ratified and has no limited and special operation upon the people's delegation by article V of certain functions to the Congress (*United States v. Sprague*, 282 U. S. 716, 733 (1931)).

A State has the same undeniable and unlimited jurisdiction over all persons and things, within its territorial limits, as any foreign nation; where that jurisdiction is not surrendered or restrained by the Constitution of the United States. That, by virtue of this, it is not only the right but the bounden and solemn duty of a State to advance the safety, happiness, and prosperity of its people, and to provide for its general welfare by any and every act of legislation which it may deem to be conducive to these ends; where the power over the particular subject or the manner of its exercise is not surrendered or restrained in the manner just stated. That all those powers which relate to merely municipal legislation, or what may, perhaps, more properly be called internal police, are not thus surrendered or restrained; and that consequently, in relation to these, the authority of a State is complete, unqualified, and exclusive (*New York v. Miln*, 11 Pct. 102, 138 (1837)).

The tenth amendment may be effective either to condemn a particular exercise of Federal authority, as without constitutional basis, or to uphold an exercise of State authority as

against the challenge of conflict with the Federal Constitution. The primary question in either case is the constitutional existence or scope of the Federal power exercised or challenged.

The Supreme Court in *Buffington (Collector) v. Day* (11 Wall. 113 (1871)) specifically held that a Federal law imposing an "income tax" on the salary of a State judge was invalid as in effect an invasion of the State reserved powers.

In this *Buffington* case the Court cited the case of *Veazie Bank v. Fenno* (8 Wall. 533) with approval insofar as the Court therein had stated that—

The reserved rights of the States, such as the right to pass laws; to give effect to laws through executive action; to administer justice through the courts, and to employ all necessary agencies for legitimate purposes of State government, are not proper subjects of the taxing power of Congress.

One quotation from the opinion of the Court in the *Buffington* case is particularly applicable to the question under discussion today, it being the following:

It is admitted that there is no express provision in the Constitution that prohibits the General Government from taxing the means and instrumentalities of the States, nor is there any prohibiting the States from taxing the means and instrumentalities of that Government. In both cases the exemption rests upon necessary implication and is upheld by the great law of self-preservation; as any government, whose means employed in conducting its operations, if subject to the control of another and distinct government, can exist only at the mercy of that government. Of what avail are these means if another power may tax them at discretion?

I repeat what I have said in days gone by with respect to the undeniable fact that never were those in favor of centralization of power in the Federal Government more active than in these very days. The lifeblood of the States is being insidiously sapped by leechlike governmental agencies whose number is legion. The eventual disintegration of the body politic and the loss of the identity of the several States is most seriously threatened. But the States will not submit if they be but aroused to a realizing sense of what confronts them. They cannot be bought for sixteen millions. They can see the forests, despite the trees.

The sixteenth amendment, which states that—

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

Has been held by the Supreme Court not to extend the power of Congress to tax income which, prior to 1913, it had no power to tax (*Brushaber v. Union P. R. Co.*, 240 U. S. 1 (1916); *Stanton v. Baltic Min. Co.*, 240 U. S. 103 (1916); *Tyee Realty Co. v. Anderson*, 240 U. S. 115 (1916); *Peck (Wm. E.) & Co. v. Lowe*, 247 U. S. 165 (1918); *Evans v. Gore*, 253 U. S. 245 (1920); *Edwards v. Cuba R. Co.*, 268 U. S. 628 (1925); *Bowers v. Kerbaugh-Empire Co.*, 271 U. S. 170 (1926)).

Confidence in the Constitution requires that it should be submitted to the people for change whenever changes in the form of our government are proposed. Other countries may, if they choose, repose their faith in individuals. In a democracy we prefer to put our faith in laws.

So radical a change in our constitutional system as is contemplated and proposed by this act can and should only be made after and by the submission and adoption of a constitutional amendment, which will so extend the power of the Federal Government as to permit it to impose such a tax. So, Mr. Chairman, it is not a question of justice or injustice, of reciprocity in taxation or revenue to be derived, of equity or inequity as between groups, or concerning retroactive legislation or tax exemptions which confronts us today; the question which I have to decide is, Am I for or against the continuance of our Government under the Constitution, such as is therein prescribed, circumscribed, and established thereby, or do I propose to go outside the Constitution and vote for the enactment of legislation of a similar character and almost identical with that which has since the beginning of our Government been held by the greatest tribunal in the world, and so held repeatedly, to be contrary to the spirit and intent of the Constitution itself?

I am going to answer that question in the exercise of my own judgment, and as my conscience dictates, by continuing

to support and defend the Constitution of the United States, and by voting against this bill. [Applause.]

Mr. COOPER. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. Celler].

Mr. CELLER. Mr. Chairman, in answer to the gentleman from New York [Mr. Wadsworth], I state this: If this particular tax in this instant bill is objectionable because, in his opinion, it seeks to infringe upon the sovereignty of the States, what about the inheritance taxes? They can be made as high or as low as the State or the Federal Government wishes. What about State income taxes and Federal income taxes? The President of the United States, for example, pays New York State income taxes, not on his salary but he pays taxes on his income derived from sources other than his salary as President of the United States. I pay an income tax to the State of New York on income derived from other source than my salary as a Member of the House. What about real-estate taxes and sales taxes and a host of other taxes? All such taxes could be made so high and confiscatory by any State as to ruin and destroy. If his argument were sound with reference to the tax involved in this instant bill, it would be just as sound with reference to these other taxes.

I am going to vote for this bill, but I do so somewhat with my tongue in my cheek. I am worried about this Gerhardt decision. My own dean of Columbia University, Judge Stone, for whom I have an affectionate regard, wrote the prevailing opinion. It is a splendid opinion, well conceived and well written. Neither he nor his colleagues of the Court in any degree overruled the old case of *Collector against Day*. It is still the law of the land. It is still, as that case stated, not competent for Congress to impose a tax upon any State judicial officer.

It is highly important to keep that in mind. It is also important to know that Judge Stone was most careful to delimit the decision to the immediate facts in the Gerhardt case. Among other things, Judge Stone said:

In tacit recognition of the limitation which the very nature of our Federal system imposes on State immunity from taxation in order to avoid an ever-expanding encroachment upon the Federal taxing power, this Court has refused to enlarge the immunity substantially beyond those limits marked out in *Collector v. Day*.

PRESIDENT'S VIEWPOINT

The President urges us to "exercise our constitutional powers to tax incomes from whatever source derived," but refers particularly to the taxing of compensation or salary for services rendered to Federal, State, and municipal governments and to the interest derived from Federal, State, or municipal obligations. He apparently is encouraged by the so-called decision of the Supreme Court, *Helvering v. Gerhardt* (304 U. S. 405), already adverted to, decided last year. The President expressed the pious hope that a decision will soon come from the Supreme Court permitting the elimination of these so-called immunities.

CHANGES IN INCOME-TAX LAWS HAVE BEEN WROUGHT WITHOUT CONSTITUTIONAL AMENDMENT

For many years it was ruled that the Treasury could not tax stock dividends. The termination was by virtue of the Supreme Court case of *Eisner against Macomber*. Twenty years after that decision it was discovered that the Court's ruling had been misinterpreted. The law was amended to provide that such stock distribution—

Shall not be treated as a dividend to the extent that it does not constitute income to the shareholder within the meaning of the sixteenth amendment of the Constitution. Thus without a constitutional amendment such stock dividends as were income under the constitutional amendment became taxable by statute.

In other words, now stock dividends may be taxed by the Federal Government. The Supreme Court may change its opinion as to taxing salaries. But I doubt it.

TAXATION OF SALARY AND INTEREST ON STATE BONDS

The rule of immunity from taxation of State agencies by the United States, or vice versa, goes back to John Marshall's time. That immunity is not expressed in any language in the Constitution. It is, I think, amplified by reason of the separation by spheres of sovereignty of the Federal and State

Governments. There have been numerous cases where the Supreme Court held that taxing by the Federal Government of compensation from instrumentalities of the State has been upheld, and the President relies specifically on the case of *Helvering v. Gerhardt* (304 U. S. 405), decided May 23, 1938.

In the Port Authority case, a construction engineer and two assistant managers employed by the Port of New York Authority asked for relief from Federal taxation. The authority was created by the joint legislative enactment of the States of New York and New Jersey with the approval of Congress. The Supreme Court held that their salaries were taxable and thereby reversed the circuit court and the Board of Tax Appeals. The authority is engaged in the operation of transportation facilities. It operates bridges, tunnels, busses, freight yards, terminals, and charges tolls for all services. The positions held by its employees were not statutory positions. No oaths were required of them. Their duties were not defined. Judge Stone, in writing the opinion, stressed the fact that the activities of said authority are gradually extending into new fields. They have practically entered business and manage enterprises formerly exclusively operated by private individuals who are subject to the national taxing power.

There is a hint in Judge Stone's opinion that the line must be drawn somewhere. The State cannot encroach upon all private business operations and thus lessen the taxing power over individuals and instrumentalities thus employed by the State.

In the *Helvering v. Gerhardt* case (304 U. S. 405) only four judges joined in the majority opinion—Stone, Roberts, Hughes, and Brandeis. Two judges dissented—McReynolds and Butler. One judge wrote a concurring opinion—Black. It is highly dangerous to place reliance on a majority opinion under such circumstances.

In the case of *Commissioner v. Stilwell* (394 C. C. A. 9542), decided by the United States Circuit Court of Appeals for the Seventh Circuit only a few weeks ago, the court, after careful study of the Gerhardt Port of New York Authority case, held in its majority opinion that the compensation received by a master in chancery in Chicago was immune from income tax. This case was decided January 12, 1939, and falls within the rule set up by Collector against Day. Thus an important circuit court disagrees with what we may do today in passing this bill.

The Circuit Court of Appeals for the Seventh Circuit, after reviewing the Port Authority case, says:

Unable to find any language in this opinion which appears to us as persuasive, and certainly there is none which is conclusive that a court officer, such as a master in chancery, should be denied immunity, and we think the source of the official's compensation is immaterial. Certainly there is nothing in the opinion which holds to the contrary, and we find nothing which indicates to the contrary.

In the case of *Collector v. Day* (78 U. S. (Wall.) 113), the court held that it is not competent for Congress under the Constitution of the United States to impose a tax upon the salary of a judicial officer of a State. This principle has stood for decades and has repeatedly been referred to with approval by the Supreme Court. The instant bill flies in the face of this case, which, in part, states as follows:

* * * If the means and instrumentalities employed by that government to carry into operation the powers granted to it are, necessarily, and, for the sake of self-preservation, exempt from taxation by the States, why are not those of the States depending upon their reserved powers, for like reasons, equally exempt from Federal taxation? Their unimpaired existence in the one case is as essential as in the other. It is admitted that there is no express provision in the Constitution that prohibits the General Government from taxing the means and instrumentalities of the States, nor is there any prohibiting the States from taxing the means and instrumentalities of that Government. In both cases the exemption rests upon necessary implication and is upheld by the great law of self-preservation, as any government whose means employed in conducting its operations, if subject to the control of another and distinct government, can exist only at the mercy of that government. Of what avail are these means if another power may tax them at discretion?

It seems to be the contention of the Government that the case of *Helvering* against *Gerhardt* overruled *Collector* against *Day* as far as employees of the State and municipalities are concerned. This view has not been accepted by

the Board of Tax Appeals. In the first case that has come to the Board of Tax Appeals since the Government made that contention, *Sydney R. Wrightington* (38 B. T. A. 1, 2), decided in January of this year, the Board refused to accept that contention. On the contrary, the doctrine of *Collector* against *Day* is reaffirmed, because the Board said:

It is said, however, that the petitioner has not met the second test of immunity, in that he has not shown that the imposition of the Federal tax upon him operates to burden the State. If this means that he has not introduced primary evidence of an actual burden during the particular years in question, the statement is correct. It is difficult to believe, however, that the Gerhardt opinion must be read as requiring such a showing to support every claim of immunity which is made under the established doctrine that the Federal Government may not by taxation interfere with the free operation of the governmental functions of the States (*Collector v. Day*, 78 U. S. 113). To read it as meaning this would logically lead to the conclusion that even the statutory compensation of the Governor of the State may be taxed by the Federal Government unless evidence is introduced the preponderance of which shows that such tax operates in fact as an interference with the carrying on of the State's essential governmental functions or those which are indispensable to its existence as a State. Such a burden of proof would practically nullify the constitutional doctrine itself, for it is hard to conceive how the burden could be discharged by any individual officer or employee of a State. We are unable to conclude that the decision in the Gerhardt case may be carried so far.

In *Commissioner* against *Stilwell*, decided by the United States Circuit Court of Appeals for the Seventh Circuit, January 12, 1939, the circuit court of appeals refused to accept the contentions made here by the Government and definitely held that *Collector* against *Day* had not been reversed by the Gerhardt case, but that, on the contrary, "the doctrine was reaffirmed," saying:

It is worthy of notice that the Court (United States Supreme Court) referred to and commented upon the case of *Collector v. Day* in as many as four instances (pp. 414-417 and 424). It would seem that if the Court intended to place any limitation upon the doctrine as promulgated in that case it had every opportunity to do so. In place of doing so, we think it is fair inference, even if not expressly stated, that the doctrine was reaffirmed (p. 9545).

Again:

A study of the cases, however, convinces us that the rule as announced in *Collector v. Day*, supra, has neither been modified nor changed and is yet the law (p. 9543).

The circuit court of appeals, construing the Gerhardt case, held in that case:

We are unable to find any language in this opinion which appears to us as persuasive, and certainly there is none which is conclusive that a court officer, such as a master in chancery, should be denied immunity, and we think the source of the official's compensation is immaterial. Certainly there is nothing in the opinion which holds to the contrary, and we find nothing which indicates to the contrary (p. 9544).

In short, Congress is now asked to accept in toto the pure, argumentative prophecy of the study as to what the Court will do and to assume that if Congress accepts and acts upon this argument, the Court will sustain it. This surely furnishes no basis for the assumption of a constitutional power.

THE SIXTEENTH AMENDMENT

The sixteenth amendment cannot help us. When the sixteenth amendment was before my State for ratification the present Chief Justice, Charles Evans Hughes, was New York's Governor. He hesitated to recommend ratification because the wording "from whatever source derived," would, in his opinion, allow the Federal Government to tax the income on New York State bonds. This was overcome by the assurances of the then Senators Root, Borah, and others to the effect that that was not the case. That contention was never questioned or contravened on the floor of the House or the Senate at that time or anytime since.

The sixteenth amendment was intended only to overcome the unworkable rule that a tax on certain incomes had to be apportioned. The phrase "from whatever source derived" found its way into the joint resolution without any explanation and is consistent only with the fact that it was not intended to change so vital a doctrine as the

one that the sovereign States are immune from Federal tax.

THE PASSAGE OF THIS BILL WILL PROVIDE A BETTER TEST CASE TO THE UNITED STATES SUPREME COURT

You might ask me why, under such circumstances, I vote for the bill. I do so because I believe it well to put the question again squarely before the Supreme Court. If the Supreme Court says the bill is unconstitutional, the question will be dumped right back in our lap and we will then have to make a decision as to whether a constitutional amendment is or is not necessary. No great harm can result from the passage of this bill. Certainly title II of the bill ought to be passed without question. Title II prevents the payment of retroactive taxes. It would be cruel not to pass title II. Let us also pass title I and take our chances.

Furthermore, I like the point of view of James W. Morris, Assistant Attorney General, as presented by him before the Ways and Means Committee of the House. He was questioned by our colleague the gentleman from Massachusetts [Mr. McCORMACK]. Incidentally Mr. Morris is a very painstaking, efficient, and erudite Assistant Attorney General.

Mr. McCORMACK. Mr. Morris, the 1926 act provided that income taxes could not be levied on State employees for 1925, the prior year?

Mr. MORRIS. I assume you are correct, sir, about the provision as to its retroactivity. I haven't before me the language of that statute.

Mr. McCORMACK. I have it here. It provides: "Gross income" includes gains, profits, and income derived from salaries, wages, or compensation for personal services, of whatever kind and in whatever form paid, or from possessions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever."

Mr. MORRIS. Yes, sir.

Mr. McCORMACK. The prohibition against the retroactive taxing of salaries of State or municipal employees that existed in the prior act was not included in that act and is not the law now.

Mr. MORRIS. You mean an express exemption?

Mr. McCORMACK. Yes.

Mr. MORRIS. Exactly.

Mr. McCORMACK. Why couldn't you go ahead and test the case out without legislation?

Mr. MORRIS. I don't think there is any doubt about it that *Collector v. Day* until and unless expressly rejected by the Court, stands in the way of that being done. The question could, it seems most likely, be considered afresh with more force if there was an express intention on the part of Congress to tax those salaries.

Mr. McCORMACK. Section 1211 states:

"Any taxes imposed by the Revenue Act of 1924 or prior revenue act upon any individual in respect of amounts received by him as compensation for personal services as an officer or employee of any State or political subdivision thereof (except to the extent that such compensation is paid by the United States Government directly or indirectly) shall, subject to the statutory period of limitations properly applicable thereto, be abated, credited, or refunded."

Doesn't that give the Federal Government the authority?

Mr. MORRIS. I think it does, Mr. McCORMACK, but I repeat that I think if the matter is to be considered afresh by the Supreme Court that it stands on stronger footing if Congress has explicitly dealt with that proposition and at the same time eliminated from it whatever of unfairness there might be by having it to operate prospectively, and at the same time emphasizing the nondiscriminatory character of it by extending to the States the right to tax incomes derived from similar Federal sources.

Mr. McCORMACK. I agree with the latter statement—that there is action necessary to give the States the right to reciprocal power, but so far as the State and political subdivision employees are concerned the power has existed since 1926.

Mr. MORRIS. I shall not dispute the Congressman on that point, and I may even go one step further and say this: That in the Sax case, from the second circuit, which was decided, by the way, in exactly the opposite way to the case in the seventh circuit that was referred to here earlier, the tax on a court functionary was upheld, and the Government had intended to make the argument that has been made here, and to assert before the Supreme Court the various contentions that should be considered in that light even though there be no such statute such as has been proposed. It so happens that the taxpayer in that case who had secured a writ of certiorari from the Supreme Court, dismissed the case, so that these arguments were not made.

If certiorari is applied for and granted in the case that has been alluded to, which arose from the seventh circuit, I certainly do not want to be understood as saying that the Government could not make these arguments there.

I do say that if we pitch our argument on the ground of non-discrimination, which I think is the heart of the justification for it, if it be sustained, then that has a stronger appeal and a more convincing approach if all discrimination be eliminated by giving

to the States the right to tax this kind of income from Federal sources. It negatives the idea of discrimination.

Mr. McCORMACK. What you are saying is that if Congress would act affirmatively, it would reinforce your argument.

Mr. MORRIS. I don't think there is any doubt about that.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. TREADWAY. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. MASON].

Mr. MASON. Mr. Chairman, to be given 5 minutes to discuss so complicated and so comprehensive a matter as the bill before this Congress today is just ridiculous. I need at least 2 months to prepare a 5-minute speech upon a question so involved as this; whereas I would need very little time to prepare a 1-hour speech upon this subject.

The gentleman from New York [Mr. CELLER] has stated he is going to vote for this measure with his tongue in his cheek, because he is worried. Well, I am worried. [Laughter.] I am going to vote against this bill because I am worried, and my tongue will not be in my cheek when I vote "no" on this bill.

Mr. MAY. Mr. Chairman, will the gentleman yield?

Mr. MASON. I do not have time.

I am voting "no" on this bill for the four reasons that were cited so eloquently, so logically, and so convincingly by my colleague from Illinois [Mr. DIRKSEN]. In brief, those reasons which he advanced were these: First, the constitutional doubt that goes with this measure, and there is grave constitutional doubt. Because of the doubt as to its constitutionality we should be very careful when we vote.

The second reason that I am opposed to the passage of this bill is because there is a better way to accomplish the desired end. That, of course, is by a constitutional amendment. We have no excuse for approaching this question in this manner. No Member of this House, I feel sure, will question the equity, the desirability, the fairness of taxing the salaries of all Government employees, both Federal and State employees. But that is not the important question involved in this bill. The important question involved is the method we adopt to accomplish a desired objective.

The third reason which the gentleman advanced was the reciprocal principle involved. I am more inclined to call it a horse trade, with the advantages all in the Federal Government, particularly in the 17 States that have no income-tax law. They get nothing, and the Federal Government gets the privilege of taxing all State and municipal salaries in those 17 States.

I want you to understand that insofar as taxing salaries is concerned, there is one Federal employee to every three State and municipal employees. That is the ratio of the employees between Federal and State Governments. That is a horse trade with the advantages all upon one side, as I see it. But the main reason I am opposing this bill and the reason I am going to vote "no" upon the bill is the principle that is involved in the bill and the far-reaching ramifications of that principle. These have been indicated by previous speakers. If we approve the principle contained in this bill of mutual taxation of salaries between the Federal Government and the State governments, we cannot logically refuse to approve another bill that is now in committee and that will be brought in here soon that is based upon this same mutual taxation basis, and that is the bill that gives the Federal Government the power to tax State and municipal obligations and gives the States the privilege to tax Federal obligations. This is the serious part of this whole tax picture.

I say there is a better way to do it. I say if the Gallup poll were applied to the Members of Congress on the equity and the fairness of taxing Government employees on their salaries it would show a higher percentage than 87 percent. But that is not the question we are facing today. It is not the equity and fairness of taxing salaries. It is the principle that is involved, as one gentleman has stated, "which permits the camel's head to enter the tent." That is the grave danger in this whole matter.

I can oppose this bill because I come from one of those States that has no income-tax law, and therefore no one can accuse me of saving my salary from State income tax. I led the battle in the State Senate of Illinois for a State income tax 6 years ago and we put it on the books, but our supreme court said it was unconstitutional. That State income tax would have taxed my salary which at that time was not taxable. In my humble opinion, the members of our Illinois Supreme Court went out of their way to find a basis for their decision in that case. They ignored the decisions of the supreme courts of eight States, North Carolina, Maryland, New Hampshire, Idaho, Missouri, Mississippi, Arkansas, and Georgia, that have identically the same constitutional provisions requiring uniform taxation that the constitution of Illinois has; they passed by recent decisions of the United States Supreme Court; and they based their decisions upon an out-moded, antiquated decision of the United States Supreme Court that has since been repudiated or nullified by later decisions. Every Member of Congress pays a Federal income tax upon his salary, and he should do so.

This measure before us would make every Member of Congress who lives in 1 of the 31 States that have a State income-tax law, pay a State income tax upon his Federal salary. And he should do so, I believe. It would, however, if passed, have no effect upon those of us who live in any 1 of the 17 States that have no income-tax law. We cannot be accused of selfish motives, personal motives, if we oppose this bill. I consider the four reasons heretofore given as justification for my opposition. [Applause.]

[Here the gavel fell.]

Mr. TREADWAY. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. COLE.]

Mr. COLE of New York. Mr. Chairman, the arguments that have been already advanced by those in opposition to this measure seem to me to offer ample grounds on which to base a negative vote. Having sworn to uphold, protect, and defend the Constitution, I cannot bring myself to support a measure which is of such questionable constitutionality as this, irrespective of how meritorious the legislation may be. It may well be that the incomes of salaries of State and municipal officers and employees should be taxable the same as salaries of persons, but we should not lose sight of the fact that this is more than a tax on an individual officer or employee—it is a tax upon the sovereignty of the State and its subdivisions without their consent. If we are to do this at all, it should be done in the regular and legal way, by submission of a constitutional amendment by which the people of the States can express their willingness that their sovereignty should be made taxable by another sovereignty.

There is, however, a further reason which, although it is far more superficial than those already advanced, is sufficiently persuasive to justify a negative vote. During the short time that I have been a Member of this body I have never witnessed a more inconsistent and illogical proposal than the one which now confronts us. The bill is divided into two titles. Under title I we seek to impose a tax upon the salaries of all State and municipal employees. By inference this title implies that the salaries of these persons are not now taxable but will henceforth be taxable. On the other hand, title II would relieve from liability the payment of taxes on salaries of this same group of persons for the past 3 years. By inference title II implies that the salaries of these persons are already taxable and have been taxable for years past.

Obviously, if title I is necessary—if, in order to make the salaries of State employees subject to the income-tax laws, it is necessary to pass new legislation—then title II is not necessary, because if there is no such law now on the statute books, then there is no liability to be waived. Conversely, if title II is necessary and it is essential that we should waive the liability that this class of persons now have for taxes under existing laws, then title I is not necessary.

For this reason, superficial though it is, I feel justified in casting my negative vote, because, Mr. Chairman, my egotism

has not yet brought me to the point where I have thought that I could blow both hot and cold in the same breath. [Applause.]

Mr. Chairman, I yield back the balance of my time.

Mr. TREADWAY. Mr. Chairman, I yield 6 minutes to the gentleman from Kentucky [Mr. ROBSION].

Mr. ROBSION of Kentucky. Mr. Chairman, ladies, and gentlemen, the measure before us (H. R. 3790) provides for a Federal income tax on the salaries and wages of all State, district, county, city, and town officials and employees. It also includes public health officials and nurses, the officers and teachers of all the State universities and colleges, all superintendents and principals, teachers and employees of public schools and public educational institutions of the State, county, and cities, and includes police and fire department officials and employees. In fact, it includes every person employed either as an official or employee of every State, county, and city government whose salary or wages are paid by State, county, or city taxes.

It is estimated that there are about 2,600,000 of these officers and employees. On the other hand, it gives the States the right to levy and collect taxes on all Federal officials and employees. It is estimated that there are 1,200,000 of these. Contrary to public belief, Members of the House and Senate and other Federal officials have for years and do now pay a Federal income tax, but they do not pay a State income tax on their salaries and wages. In 31 States, State officials and employees now under the laws of those 31 States pay a State income tax but they do not pay a Federal income tax. In other words, if this measure goes through, every Federal official and employee and every State official and employee except the 17 States that do not have a State income tax may be required to pay two income taxes—one to the Federal Government and one to the State.

I AM OPPOSED

For what I consider several good and sufficient reasons I am opposed to this bill. In the first place I believe it is clearly unconstitutional. Congress has no right to impose an income tax on the salaries and wages of State, district, county, and city officials and employees, and the States have no right to impose an income tax on Federal officials and employees. The uniform decisions of the Supreme Court, beginning with the famous case of *McCulloch* against Maryland, decided in 1819 by the greatest of all American jurists, Chief Justice John Marshall, held that Congress had no such power. That decision was reaffirmed in the case of *Collector* against Day, decided in 1868. There has been numerous cases since that time before the Supreme Court and they have uniformly upheld the decision of the Supreme Court in *McCulloch* against Maryland and *Collector* against Day. This same question was brought directly before the United States Circuit Court of Appeals at Chicago when the case of *United States Commissioner of Internal Revenue* against Stillwell was decided there in January 1939. This decision reaffirms the uniform holdings of the Supreme Court for 120 years on this same question.

In order for the bill before us to be held constitutional the Supreme Court must overturn this long line of decisions of the Supreme Court and of the United States circuit courts of appeals during a period of 120 years. These decisions are bottomed on solid ground.

POWER TO TAX IS POWER TO DESTROY

The Supreme Court has held that the power to tax carries the power to destroy. If it should be allowed for the Federal Government to tax State, district, county, and city officials and employees and the officials and employees of the agencies of the State government and its branches, it would place in the hands of the Federal Government the power to oppress and destroy the State and the governmental agencies. In other words, it could by threats and oppression take away the freedom of action of the States, their officials, and employees, and destroy the liberty and independence of the States. There has never been any measure introduced in Congress that offered a greater threat

to States' rights than the bill now before us. Believing it to be unconstitutional, I am constrained to vote against it.

The Republican Members of the House in 1923 proposed a constitutional amendment to submit this question to the people of the States themselves and let them decide whether or not they desired to so amend the Constitution as to give the Federal Government this power. Strange to say, the Democrats in the House at that time all but a very few voted against that proposed constitutional amendment. They then were urging State rights.

May I urge another objection? If this should become a law it would create, no doubt, a lot of discord and bitterness as between the States and the Federal Government. Congress might undertake to impose a heavier income tax on State officials and employees than they would think just, and in order to retaliate the State legislatures might impose a heavy income tax on the President, members of the Cabinet, and all other Federal officials and employees. For the proper carrying on of the Federal and State Governments there should exist a friendly cooperation between the Federal and State Governments. The Federal Government must not be in the attitude of fighting the States, neither must the States carry on a warfare against the Federal Government, and the power should not be given to the sovereignty of the State nor to the sovereignty of the Federal Government to antagonize, harass, or oppress the other. The present plan has worked splendidly for 150 years, and why should we now fly into the teeth of the highest court of the land and pass this measure of doubtful constitutional authority in order to collect some more tax money to be squandered and wasted by the present administration. [Applause.]

CUT OUT WASTE AND REDUCE TAXES

It is urged that many of these officials and employees of the State, district, county, and city governments would not be required to pay an income tax after allowing exemptions. If this policy should be once adopted, then the policy that has been urged for some time would be brought into action; that is, to greatly reduce the exemptions, so that all of our State, district, county, and city employees, including teachers, nurses, and others, might be required to pay an income tax to the Federal Government.

This administration has brought in a new tax bill at each and every session to increase old taxes and add new taxes. They must stay awake at night seeking new sources to impose new and heavier taxes on the already overburdened taxpayers of the Nation. I have consistently spoken and voted against each and every one of these tax measures. I realize that we need taxes, but I am opposed to giving this administration an increase of taxes or any taxes so long as they squander and waste the taxpayers' money and add deficit upon deficit and increase the national debt. [Applause.]

The President frankly admits it is not his purpose to limit the expenditures of the Government to its income. He proposes to continue making new and greater deficits and add to our national debt. One of these days we will need taxes to save the credit of this Nation. I am unwilling to take the last penny out of the pockets of the taxpayers and squander it before that time comes.

The President, in his campaign speech of 1932, denounced the Republican administration because he charged that the administration was taking too much of the earnings of the people for taxes. He said that it was causing unemployment and the stagnation of industry and agriculture. He promised to stop the increase of taxes and reduce the national debt. The last fiscal year of the Hoover administration the Government collected a little over \$1,800,000,000 in revenue from the American people. The last few years under Roosevelt we collected \$6,000,000,000, an increase of over 200 percent.

If the Congress makes the appropriations he has demanded for the year 1940, Mr. Roosevelt, notwithstanding these heavy taxes, will have added nearly \$25,000,000,000 to the national debt and pushed the national debt beyond the debt limit of \$45,000,000,000. The more we tax the people and the more money we give to this administration, the more

they waste and squander, and this is one of the chief causes for the 13,000,000 unemployed people, the 40,000,000 needing some form of public relief, the falling prices in agriculture, and the stagnation of industry and commerce. The American people are insisting that instead of finding new taxes and increasing present taxes that the Congress and the administration find ways to cut out waste and extravagance, reduce expenses, and then we should be able to cut out many burdensome taxes and reduce other taxes. [Applause.]

The membership on the Republican side of the House increased nearly 100 percent at this Congress over the last Congress. One of the main reasons for that is the many unconstitutional bills this administration has forced through Congress, the increase of taxes, and the policy of squandering and wasting the tax money of the people of the Nation. Let our New Deal friends continue this policy and instead of having 169 Republicans in the House as we now have, after the national election in 1940 there will be well over 300 Republicans in the House and we will have a Republican in the White House.

May I urge our Republican friends to vote against this unconstitutional and oppressive tax measure. In so doing I think you will render a real service to the people and to our country. [Applause.]

Mr. TREADWAY. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. GWYNNE].

Mr. GWYNNE. Mr. Chairman, I believe the procedure outlined in this bill to be constitutionally sound.

The doctrine of the immunity of governmental agencies from taxation was first announced by Chief Justice Marshall in the celebrated case of *McCulloch v. Maryland* (4 Wheat. 316). In all the years that have followed it, no one has seriously criticized the actual decision in that case. The tax levied by the State of Maryland was clearly discriminatory and would have impeded, if not destroyed, the functioning of the Federal Government through the bank which it had created. The Chief Justice did not lay down a general principle that a State could never tax an officer or instrumentality of the Federal Government. He simply decided that if the tax were designed to, and in fact did, seriously impede or prevent the operation of the Federal Government, the tax must give way to the superior power of the Federal Government. It was not the tax which Marshall condemned, but rather the attempt to destroy by means of the tax.

Unfortunately, the decision contained the famous phrase, "The power to tax involves the power to destroy." In a limited sense, this statement is of course correct. All powers of Government, in the same sense, involve the power to destroy. However, the Court has long been committed to the doctrine that the existence of a power will not be denied simply because it may at some time be abused. The Constitution has ample safeguards against the abuse of any power granted in it.

Since the decision in *McCulloch* against Maryland, many cases have discussed this general principle of immunity from taxation. It would serve no useful purpose to discuss them here in detail. If they can all be reconciled, it is beyond my power to do so. However, I believe they establish two general exceptions to the principle of immunity of State officers and instrumentalities from Federal taxation.

First. They exclude those activities of the State which for all practical purposes are not essential to the preservation of the sovereign State. This is the case of *Helvering v. Gerhardt* (304 U. S. 405), for example.

Second. They exclude those cases where the tax laid upon the individual State official only remotely affects the State, by theoretically requiring the taxpayers thereof to pay the amount of the tax levied on its official or instrumentality.

I believe the real question which must be answered in all these cases is, Does the imposition of the tax, in a practical sense, impede the functioning of that Government whose officer or instrumentality is taxed?

It must be remembered that the State or municipal official is, of necessity, both a citizen of the State and of the United States. He owes both sovereigns a duty of support. If the

Federal Government simply calls upon him to pay the same tax as any other citizen receiving a similar income, how can such action be construed as an attack upon the sovereignty of the State?

No one believes more firmly in the maintenance of our dual system of government than I do. The preservation of the line between their powers is the primary duty of the President, the Congress, and the courts. At one time this line, in taxation matters, may be put in one place; at another time and under changing conditions it may be put in another place. The fundamental mandate of the Constitution is not "There shall be no tax," but rather "There shall be no tax that destroys." [Applause.]

Mr. COOPER. Mr. Chairman, I yield 10 minutes to the gentleman from Oklahoma [Mr. DISNEY].

Mr. DISNEY. Mr. Chairman, it appears to me that this is rather a legislative attempt to straighten out a tangle created by the courts.

Answering the gentleman from New York [Mr. COLE] with reference to this being an illogical bill, I may say that there is a very practical reason why title II should pass. I anticipate that he is not apprised of the fact that under these recent decisions it is mandatory on the collectors to collect taxes upon all of those persons who are drawing salaries operating under nonessential State governmental operations, such as the Port of New York Authority; people who did not expect to be taxed heretofore, and had no idea that such court decisions would be forthcoming. It requires the utmost good faith that this Congress take care of the situation created, not by the Congress, but by the courts in their struggle with this problem that has constantly arisen.

My esteemed friend, the distinguished gentleman from New York [Mr. WADSWORTH] suggests that we are struggling at a gnat and may be swallowing a camel, that for a mere bagatelle, a pitiful performance to tax 6½ percent of the State salaried people and collecting possibly \$16,000,000, we are sacrificing a principle. It seems to me that the principle involved, at least one principle involved, is the equalization of taxes, so that all shall pay alike, on their ability to pay.

Let us consider the salary of the mayor of one of our towns. He escapes a Federal income tax and pays a State income tax. His neighbor, the businessman or other salaried man in business, pays both a State and Federal tax. I think there is a moral issue involved here.

Mr. GREEN. Will the gentleman yield?

Mr. DISNEY. I yield to the gentleman from Florida.

Mr. GREEN. As I understand from the provisions of this bill, a State employee will pay a Federal tax and a Federal employee will pay a State tax, and these taxes will be uniform?

Mr. DISNEY. That is the attempt.

Mr. GREEN. One further question.

Mr. DISNEY. Let me answer the question. The bill provides for a direct tax upon the State employee and gives consent to the State to tax Federal employees; but it must be said in all fairness in this connection that any Congress which comes along may, of course, repeal that consent. It does not approach the dignity of a compact with the States.

Mr. GREEN. In this connection, does not the State farmer or businessman now pay a State and a Federal tax on his net income?

Mr. DISNEY. Yes.

Mr. GREEN. It looks to me like it would be fair for the State and Federal officeholder to do the same thing.

Mr. DISNEY. The attempt is to equalize the taxes, which seems to me very highly important, and that there is an important principle involved there. There is a principle involved in the matter of the dual nature of the State and Federal Governments, of course. My distinguished friend the gentleman from New York [Mr. WADSWORTH] suggests that we are going to start a revolution here and now with this bill. The revolution happened when the States ratified the sixteenth amendment. We are now attempting to approach the sixteenth amendment with this bill. One school of thought believes that the States lost sight of States' rights

when they gave the Federal Government, under the sixteenth amendment, the unlimited right to tax incomes without reserving any rights to the States.

Mr. O'CONNOR. Will the gentleman yield?

Mr. DISNEY. I yield to the gentleman from Montana.

Mr. O'CONNOR. Do I understand from the operation of this measure that we are going to tax the teachers of our schools throughout the United States?

Mr. DISNEY. Yes, if taking into consideration their exemptions, their net income is sufficient to require taxation. Most of their salaries are not that high.

Mr. O'CONNOR. Does not the gentleman realize they are the most underpaid class of people we have?

Mr. DISNEY. That is true. So few of them will be in the taxpaying class. They are not in danger, except the very high-salaried ones.

Mr. O'CONNOR. Does not the gentleman think they should be exempted?

Mr. DISNEY. Yes. In fairness, of course, I may say the teachers have the same right to claim exemption as any others. Only about 6½ percent of the vast army of State employees will be affected by this bill, and they have the right to claim their exemption.

Mr. O'CONNOR. They have the general exemptions under the law we now have?

Mr. DISNEY. Yes. We Congressmen pay a Federal income tax, too, on our net incomes.

Mr. O'CONNOR. But they have no greater exemption than what we have now?

Mr. DISNEY. No.

Mr. O'CONNOR. As I said before, they are the most underpaid class of people we have.

Mr. DISNEY. The gentleman would not contend for anything under the law except that every man be treated alike, whether he is a school teacher, farmer, mayor, Congressman, or a Federal judge. Of course, we are foreclosed on the Federal judges by the courts' decisions.

Mr. O'CONNOR. My point is the school teachers are the most underpaid class of people we have and I do not think we should tax those people.

Mr. DISNEY. The low-salaried folks will not get caught for taxes under this.

Mr. SIROVICH. Will the gentleman yield?

Mr. DISNEY. I yield to the gentleman from New York.

Mr. SIROVICH. I would like to ask the distinguished gentleman from Oklahoma a question. In Great Britain they have an income tax which provides that everyone that earns more than \$500 a year shall pay an income tax, without exemption. Why should not this country have the same kind of law, with no exemptions?

Mr. DISNEY. I respect the gentleman's views and reiterate that I stand for equality under the law for all taxpayers—including officeholders.

Mr. EATON of New Jersey. Will the gentleman yield?

Mr. DISNEY. For a question, speech, or observation?

Mr. EATON of New Jersey. For a question, with an observation tied to it.

Mr. DISNEY. I yield to the gentleman.

Mr. EATON of New Jersey. I understand the object of this bill is to raise revenue.

Mr. DISNEY. No. The prime object of the bill is not to raise revenue but to equalize taxes.

Mr. EATON of New Jersey. I see. It will bring in \$16,000,000 in new money, is that correct?

Mr. DISNEY. Yes.

Mr. EATON of New Jersey. We now spend \$25,000,000 a day; so why not cut down our expenses for a half day and let these people alone?

Mr. DISNEY. I will leave that for the gentleman to answer.

Mr. GIFFORD. Mr. Chairman, will the gentleman yield?

Mr. DISNEY. I yield to the gentleman from Massachusetts.

Mr. GIFFORD. Will the gentleman tell us how he would tax Federal salaries in Oklahoma?

Mr. DISNEY. By this bill.

Mr. GIFFORD. Do you have an income tax there, or how would you reach such salaries?

Mr. DISNEY. We have a State income tax.

Mr. FERGUSON. If the gentleman will yield, I may say that the Oklahoma income tax runs up to 10 percent. It is one of the highest in the Nation.

Mr. GIFFORD. How would it apply to Federal salaries?

Mr. HOUSTON. Mr. Chairman, will the gentleman yield?

Mr. DISNEY. I yield to the gentleman from Kansas.

Mr. HOUSTON. May I ask if the salaries of the President and the Federal court judges are subject to taxation?

Mr. DISNEY. The salary of the President, like that of Congressmen, is taxable under the Federal tax laws. Under Federal court decisions, which involve not the sixteenth amendment but another clause of the Constitution that relates to the increase or diminishment of a judge's salary during his term of office, the Federal courts hold that a Federal judge's salary is not taxable by either Federal or State Governments.

Mr. HOUSTON. Would the States have the right to tax the salaries of Federal judges?

Mr. DISNEY. No; I do not believe so under this bill, because, as I said, the courts construe their situation under another section of the Constitution and hold them not liable for taxes.

Mr. DUNCAN. Mr. Chairman, will the gentleman yield?

Mr. DISNEY. I yield to the gentleman from Missouri.

Mr. DUNCAN. Does not this provision apply to judges appointed prior to 1932? Judges appointed since that time are subject to the tax.

Mr. HOUSTON. I understand that, but does this bill apply to judges appointed before 1932 because of the act of Congress that year on the subject?

Mr. DISNEY. I do not believe judges appointed since 1932 are held to be exempt, but that they are all paying income taxes. I may be in error about this.

Mr. HOUSTON. Those appointed since 1932 are paying the tax now; yes.

Mr. DISNEY. The law, as I understand it, has been stated here this afternoon. The doctrine of McCulloch against Maryland does not spring from direct constitutional authority. According to Justice Marshall, it is implied from the plan of the General Government and its relation to the States. This decision has not been overruled. The Gerhardt case does not overrule Collector against Day, where an attempt was made by the Federal Government to tax the salary of a State probate judge. This is the first direct attempt by the Congress to apply by statutory action the rule in those cases to the sixteenth amendment. As far as salaries are concerned, if the language in the sixteenth amendment—"from whatever source derived"—had been construed literally, out would have gone McCulloch against Maryland, Evans against Gore, Collector against Day, and the other decisions we are trying now to clarify in order to reflect by this bill the attitude of Congress and, if you please, re-present the question to the Supreme Court, not only on the theory that this bill would raise money but on the broader theory that there is a moral obligation to equalize the taxes of all citizens in the country and let the public officer be on the same basis of tax equality as the private citizen. [Applause.]

[Here the gavel fell.]

Mr. TREADWAY. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LELAND M. FORD].

Mr. LELAND M. FORD. Mr. Chairman, I want to speak on a bill, H. R. 3590, relating to taxation of public officers and employees.

It appears to me that this bill is somewhat unfairly drawn, and that for the purpose of full consideration and real freedom in voting should be properly split into two bills.

I say this for the reason that a vote for the bill makes certain the protection in exemption of public officers and employees on the so-called retroactive tax features on salaries paid in past years. This same vote for the bill as a whole ultimately taxes governmental employees in the future.

A vote against this bill will protect governmental officers and employees in the future against taxation, but leaves them in a questionable position as to the past.

Many of us—and I am one of them—would like to see this bill so placed before Congress as to give us that freedom of choice that we are eminently entitled to, namely, to vote on both these questions separately. Personally I would like to vote for that part of the bill that would protect the employees against the retroactive feature and the collection of back taxes and still be against taxation of future salaries of officers and employees.

I think that certainly by present example and the practice followed it has been clearly shown that it never was originally intended to collect the tax of officers and employees in the past years. Now to come at this late date and collect taxes on those past years is, in my opinion, not only extremely unfair, but is unconstitutional in that it is retroactive. It would financially wreck many good governmental employees. Many simply could not pay, especially those in the low-salary brackets. They have just been getting by in many instances in the past, and their money has been spent. Where could they now get the money to pay these back taxes and still have enough left upon which to live? There has been much talk of unemployment, decent standards of living, and so forth. What would be the condition of these thousands of people if this retroactive tax would be placed against them and an attempt made to collect it?

Let those who talk of unemployment and decent standards of living now square their actions by their words, not only with reference to the past but in consideration of the future.

I am against taxation of governmental securities, bonds, and so forth, and that tax on officers' and employees' salaries in the future.

This is equivalent to the Government collecting taxes and placing them in one pocket and then paying it out of the other. For, after all, some governmental unit must pay these salaries that it is now proposing to tax. This will eventually result in higher governmental costs, and this country cannot much longer stand this continued increase of governmental cost.

The wage and salary levels are either too high, proper, or too low. If it is found that the average salaries and wages are on proper levels, then in all probability this tax item will be absorbed by governmental units and thereby increase governmental cost.

Taxation of governmental securities, salaries, and wages of officers and employees is not the answer to this question. The answer is, first, the determination by each of the respective governmental bodies whether its salaries are or are not too high. After this has been determined, these same governmental units should fearlessly and fairly make the proper corrections where called for.

I have had much experience along this line, not only with salaries, salary increases, and so forth, but with the problem of the ability of the Government to pay and, most important, the ability of the taxpayer in turn to pay taxes to sustain government. In 1931-32, when the county of Los Angeles was in bad financial condition—and still is—the 14,000 employees of that county came forward voluntarily before our board to take salary and wage cuts from 10 to 25 percent, with the understanding that such cuts would be restored the next year if the county was able. The county was not able, and these cuts were not restored until 1936-37.

During these same years, and continuing until the present, the group advancements under civil service and the charters of that county were not, and are not now, operating for the reason that the county cannot pay. These employees have willingly and cheerfully under their sound leadership accepted these things. Now, to come in under these new conditions and tax them, which is equivalent to cutting their salaries and wages, appears not only to be unfair but highly impracticable, for if these salaries and wages are at the present time, let us say, proper, and this cut occurred, the same salaries and wages will finally be raised—and the

burden of this raise will fall on whom? The governments first, then the taxpayer last.

Practically the same argument holds for governmental bonds and securities. As soon as you tax these, the interest rates will go up, and government in the long run will pay the bill and hold the sack.

The only final result accomplished will be that our people will be throwing more money into that bottomless abyss of expenditure, fed by the tax collector.

Again the answer is not the continual seeking of new sources of taxation but, rather, the cessation of this tremendous spending program and the lessening of the tax burden on all our people.

I am not going to vote, and hope this House will not vote, any more taxation upon any of our people; but hope they will vote to balance our Budget by the cessation of those tremendous expenditures on the debit side, and quit putting the Federal money in places and upon things that are not real functions of government and where the Federal Government has no business.

Mr. TREADWAY. Mr. Chairman, I yield 3 minutes to the gentleman from Kansas [Mr. REES].

Mr. REES of Kansas. Mr. Chairman, the measure we have for consideration this afternoon deals with two propositions—the first title providing that all persons employed by an instrumentality of the Government shall pay Federal income taxes the same as anyone else—provided their income warrants it.

As the situation now stands, anyone employed by the Federal Government does not pay State income taxes on his salary; and anyone who is paid by the State, county, or other municipality—no matter what salary he gets—is exempt from paying Federal income taxes.

The second title of this bill simply states that the Federal Government cannot go back of January 1, 1939, to collect income taxes from persons who received their income from municipalities. This comes about because the Treasury Department has ruled, on the basis of a recent court decision, that it has a right to go back for a period of 12 years and collect income taxes for those years from people who received their income from the various subdivisions of our Government. To do this, of course, would be unfair—because they have always believed they were exempt from such taxes.

During the few minutes allotted to me, I shall discuss the first title of the bill. Most of the objection to this title is on the ground of its constitutionality—the question involved being whether or not the Federal Government has a right to tax the State or other municipality. I do not claim to be a constitutional lawyer. The question has been well presented on both sides. In view of the sixteenth amendment to the Constitution, adopted by the people of this country, the Federal Government has a right to collect taxes on income from whatever sources derived. This measure is not a tax on a State or subdivision of the State. It is a tax on incomes of a group of people who have heretofore been exempted.

I believe it would be better if the question could be submitted as a constitutional amendment and let the people pass on it. Congress has had a chance for many years to do this thing and has failed to do it. It seems to me that this is only a problem of straightening out an inequity which has heretofore existed.

This measure provides that persons who are employed by the State, the county, or by any institution of the State, including your governor, your attorney general, and your State university and other State institutions, if you please, shall pay the same Federal income taxes as the farmer or the merchant or the carpenter or anyone else would pay, subject, of course, to the right of the same exemptions.

It also means that the great army of Federal employees, numbering in the hundreds of thousands, including the Members of Congress, will pay, in addition to their Federal income taxes, whatever income taxes are levied by their various States.

Certainly, in my judgment, there is nothing wrong with that principle. There can be no reason why the salary or

income paid to an individual by a State should be exempted from taxation any more than the income of the railroad man or the oil-field worker or the farmer. And, as I said before, everyone is entitled to exactly the same exemptions. It is only fair that everyone should pay according to his ability to pay, and every American citizen should want to contribute to the support of the Government which protects him.

A number of Members on the floor this afternoon have used the famous quotation that "the power to tax is the power to destroy." I believe, in the light of our recent experiences, that the greater danger right now, so far as our country is concerned, and so far as this Congress is concerned, is that the power to spend is the power to destroy.

The great trouble with this Congress during the past few years, is not so much the power to tax, but the power it has used in spending the taxpayers' money. I know, as well as you do, that it has been necessary to spend vast sums of money, and we are going to continue to spend millions—even billions—before the close of this Congress, according to the program that has been set before us. Some of it, of course, will be necessary, but I wish I had time to call your attention to the millions of dollars of the peoples' money which we are about to spend for so-called objectives, that are unnecessary. For instance, the recent administration approval of the Florida ship canal project which will require an expenditure of about \$200,000,000. This is only an example of the many propositions which have been and will be submitted to this Congress for its approval. If we are going to reduce taxes, we will have to quit spending so much money.

The right to levy and collect taxes still lies with the Congress. I do not think Congress, representing the people of this country, will abuse its authority in that direction. I am fearful of its authority and the pressure that is brought upon its membership, to make unwise expenditures and permit waste of the funds that must be paid out of the pockets of the people of this country. [Applause.]

Mr. TREADWAY. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio [Mr. JENKINS].

Mr. JENKINS of Ohio. Mr. Chairman, we have been here now for more than 2 hours and we have listened to some very brilliant and elucidating arguments with the result that the subject matter has been very well covered. I shall not flatter myself with the hope or the thought that I can say very much that is new. Nearly every possible aspect of the case has been touched upon, but if you will bear with me, during the time I have I should like to recapitulate the salient features referred to in this discussion.

In the first place, you have heard a lot about the constitutionality of the measure. I should like at this time to lay down a challenge to those who favor the passage of this bill and are to follow me. I should like to challenge them to point to a single sentence in any decision of the Supreme Court that sustains the constitutionality of this bill. That cannot be done, because it has not been written into any law or into any decision anywhere by the Supreme Court of the United States. Let me go a little further with reference to this point, perhaps, at the expense of repetition.

The case of *McCulloch* against Maryland decides what? It decides that a State cannot tax an instrumentality of the Federal Government. That case has never been changed, never been repealed, altered, or challenged. It is the law today.

Let us consider the reverse of this proposition, where the Government of the United States sought to levy a tax on a State official. That case is distinctly and directly in point, and the Court held in *Commissioner* against *Day* that the United States could not levy a tax on a State official. This case is still the law there.

Let us consider the third class. There has been some comment here about the fact that there is some confusion with reference to the passage of the sixteenth amendment. What does the sixteenth amendment do? It does just the one thing that it was intended to do. We could levy an income tax before the sixteenth amendment was passed. There is

no reason why the Congress of the United States could not levy a tax before the sixteenth amendment, but it was so impractical that it was not done. Why? Because the Constitution provided that the taxes thus collected had to be apportioned. What does "apportion" mean in this connection? That the tax collected would have to be apportioned in a lump sum to the various States. The sixteenth amendment did away with that apportionment and provided that a tax may be levied and collected individually by enactment of the Federal Government. There is a case that passed on the sixteenth amendment, and that is the case of *Evans against Gore*. That decision in that case holds that the sixteenth amendment did not provide for anything except to remove the necessity of apportionment. If the constitutionality of this bill cannot be established, then we ought to dispose of this proposition.

Let us pass to the more practical phases of this bill. Many Members have discussed them. One man says that it would not be comfortable for us if we fail to vote for this bill because someone will ask us back home why we did not vote to tax our own salaries. I have not time to discuss that, but I am perfectly willing to pay a State income tax as I am now and have ever since I have been a Member of Congress paid a Federal income tax. But I am not in favor of changing the form of our government every time a bunch of irresponsible New Dealers ask that it be done.

There are 17 States of this Union that do not have an income tax. The efficiency and beauty of any law is in the generality of its enforcement. This law would compel 17 States to do something they may not want to do. At least they have not done so yet. I do not profess to speak for all of them, and I do not profess to speak for the great Commonwealth of Ohio, except as I speak as one Congressman. We do not want this income-tax bill forced upon us. We want to pass our own income tax in our own way and in our own time. We have plenty of intelligence in our Ohio Legislature to pass an income tax when our people are ready for it. We do not want this Congress to say to us that we must pass an income tax in order to protect ourselves against the Congress. Those of you who want to find some comfort in your vote today should remember that on the stump you said that you stood for economy and against any new taxes. Here is the time to make your promise good to the people and stand against any new tax, and especially those of you who come from the States that do not have an income tax today.

I have heard some of you say that you will vote for the retroactive feature of this bill, that you are not in favor of title I, but you are in favor of title II, the retroactive feature. I shall now make a positive statement that may startle you. I say to you that title I is absolutely unnecessary if title 2 is necessary. What does title 2 do? It is retroactive. It prevents the Treasury Department from going back 2 or 3 years and levying a tax on school teachers and policemen and thousands of others in your State. If they have a right to collect that tax 2 or 3 years back without any law why have not they the right to levy it forward now without this law? [Applause.] Who can explain that to me? I repeat, if they have a right to go back and tax school teachers and the policemen and the firemen of your community, they must do it by virtue of some law, by some semblance of a law. If they can collect 1937 tax legally then they can collect 1940 tax legally. Of course, sometimes they do not pay much attention to the law down there, but they must act on some semblance of law. If they can go back and you want to prevent them from going back 2 or 3 years, why can they not go forward without this law? The honest way to go forward is not by force of numbers but the proper way is to submit this proposition to the people and let them pass on it by a constitutional amendment in an orderly way as the Constitution provides. I say to you that it is not their purpose to proceed that way. Their purpose as brought out in the hearings before the Committee on Ways and Means—that purpose is to drive this bill through the Congress and depend on the newly

packed Supreme Court to sustain it. This is a most dangerous step and should be resisted by all of us.

Mr. DINGELL. Will the gentleman yield?

Mr. JENKINS of Ohio. I do not yield.

Mr. DINGELL. Are you impugning the Supreme Court set-up?

Mr. JENKINS of Ohio. I say I do not yield to the gentleman now.

I was about to say, Mr. Chairman, that the smartest man on tax matters in the United States that I know, is Dr. Magill, who until recently was the able Under Secretary of the Treasury. He is a Democrat, I believe. Only last year, in public utterances in different places, and before our Ways and Means Committee, he stated that it was not the policy of the Treasury Department to proceed in the manner that we are proceeding here today. He said it was the plan of the Treasury to bring this question before the people by proposing a constitutional amendment. Why is it not being done?

I say to you there is not anybody who will follow me today on this floor who will say he has any constitutional ground whatever to support this statute, and that they confidently expect it will be challenged; that it will go to the Supreme Court; and that by that course they will thwart the people in their desire to express themselves. Now, if you support this bill you are going to abandon the path that the American Nation has followed for 120 years. Chief Justice Marshall put our Government in that path. Daniel Webster helped to put our feet in that path. We have been treading that path for 120 years; a certain, definite path; a path upon which the economic structure of this the greatest nation in the world has been built. Now, today they are asking you in a slipshod way to pass a law that they themselves, the Department, just last week, before the Ways and Means Committee, said they have no definite idea of what will happen, but they know they can get this into the Supreme Court of the United States. The question was asked them, "Do you think you can get a decision from the Supreme Court any quicker than you can get a decision from the American people by submitting a constitutional amendment?" That is the way it stands. [Applause.]

At the risk of repetition I am going to elucidate somewhat on what I have already said by referring again to the Supreme Court decisions. There is one case that stands out preeminently among the judicial decisions of the Nation as they apply to the power of the Federal Government and the power of the States to levy taxes. That case is the case of *McCulloch v. Maryland* (4 Wheat. 315). The decision in that case was written by John Marshall and one of the attorneys in the case was Daniel Webster. One of the most significant sentences in American legal decision is a sentence spoken by Daniel Webster in his argument before the Court in that case and the same sentence is carried by John Marshall in his opinion. Here is the sentence: "The power to tax involves the power to destroy." The case of *McCulloch* against Maryland holds, first, the Government of the Union, though limited in its powers, is supreme within its sphere of action, and its laws when made in pursuance of the Constitution form the supreme law of the land; second, the State governments have no right to tax any of the constitutional means employed by the Government of the Union to execute its constitutional powers.

Probably the most significant paragraphs in this masterful opinion by Chief Justice Marshall is the paragraph where he seeks to impress the importance of the question under consideration and the paragraph where he outlines the dangerous extremes to which the States might go if permitted the unrestricted power to tax Federal activities. These paragraphs are as follows:

In the case now to be determined, the defendant, a sovereign State, denies the obligation of a law enacted by the Legislature of the Union, and the plaintiff, on his part, contests the validity of an act which has been passed by the legislature of that State. The Constitution of our country, in its most interesting and vital parts, is to be considered; the conflicting powers of the Government of the Union and of its members, as marked in that Constitution, are

to be discussed, and an opinion given which may essentially influence the great operations of the Government. No tribunal can approach such a question without a deep sense of its importance and of the awful responsibility involved in its decision. But it must be decided peacefully or remain a source of hostile legislation, perhaps of hostility of a still more serious nature; and if it is to be so decided, by this tribunal alone can the decision be made. On the Supreme Court of the United States has the Constitution of our country devolved this important duty.

If the States may tax one instrument, employed by the Government in the execution of its powers, they may tax any and every other instrument. They may tax the mail; they may tax the mint; they may tax patent rights; they may tax the papers of the customhouse; they may tax judicial process; they may tax all the means employed by the Government to an excess which would defeat all of the ends of government. This was not intended by the American people. They do not design to make their Government dependent on the States.

The Supreme Court has never reversed *McCulloch* against Maryland. It is still the law. If the activities of the Federal Government cannot be taxed by the States, by what right or authority can any action of Congress give to the States this authority? Congress does not have such power. The language of section 3 of title I of this bill under consideration is truly appalling when we consider that the Congress of the United States assumes to speak for the United States of America in a very presumptuous manner. The language that I refer to is the following:

The United States hereby consents to the taxation of compensation—

And so forth, of officers and employees of the United States or any agency or instrumentality of the same. It strikes me that this is a most unusual situation.

Surely it was never intended that the Congress of the United States should by the wave of the hand, as it were, give away rights and privileges and liberties of the whole United States. Would it not be more sensible to assume that in such an important matter as this that the best thing Congress could do would be to prepare the way for this important matter to be submitted to the people for their ratification or rejection by a referendum vote on a constitutional amendment?

Considering further the question of whether the Federal Government can tax an instrumentality or an agency of the State government. This question came up for consideration by the Supreme Court as the result of an income-tax law passed by Congress in 1864. The case I refer to is the case of *Collector v. Day* (11 Wallace, 113) and decided in 1867. The syllabus of this case contains but one paragraph of a few words. It is as follows:

It is not competent for Congress under the Constitution of the United States to impose a tax upon the salary of a judicial officer of a State.

From this syllabus it might be argued that the Court considered only that this was a "judicial officer of a State," but the opinion of the Court went much further. It held that since the Supreme Court had held in *Dobbins v. Commissioners of Erie County* (16 Pet. 435) that a State cannot tax the salary of an officer of the United States and the United States cannot tax the salary of a State officer—a judge. The Court in its opinion in this case said:

It is admitted that there is no express provision in the Constitution that prohibits the general government from taxing the means and instrumentalities of the States, nor is there any prohibiting the States from taxing the means and instrumentalities of that government. In both cases the exemption rests upon necessary implication and is upheld by the great law of self-preservation; as any government, whose means employed in conducting its operations, if subject to the control of another and distinct government, can exist only at the mercy of that government. Of what avail are these means if another power may tax them at discretion?

In conclusion, let me say that this bill comes to us from the Treasury in a manner that will excite the suspicion of anyone who will take the time to investigate its genesis. It is an attempt to do in a new way what until very recently the Treasury had intended to try to do in the ordinary way as provided in the Constitution. It is a dangerous experiment by a few young "brain trusters" who now represent the depleted and unbalanced Treasury. They are seeking a new field of taxation where they can gather in additional millions that they might keep up the wild spending orgy

which has now continued for about 6 years. Their purpose is to blot out State lines as much as possible. They know that then the Washington Government will transcend the States. This reciprocal program that they seek to set up in this bill is largely a myth. If this bill is passed and this program carried through it will be seen that the Federal Government will draw into the Treasury from the millions of State and municipal officials and activities much more money than the States will ever be able to draw from the Federal officials. I hope that this House today will decide to stand by John Marshall and Daniel Webster as against this coterie of unknown "brain trusters" who seem to have full sway with the treasury of the richest nation in the world.

As sure as "the power to tax is the power to destroy" so sure is this ill-begotten piece of legislation sure to be the beginning of years of strife and litigation between the sovereign States and the sovereign Government. It is unfortunate that we jeopardize the very perpetuity of the Nation in a program of destructive taxation to meet the demands of an extravagant administration when with the application of more patriotism and more thrift we could put our country on the highway of prosperity where the States would continue to carry on in the sphere which has made them a most glorious galaxy of sovereign States and where the Federal Government could continue to operate strictly within its sphere in such a way as to be the supreme power which the founders of the Republic intended it should be when the Thirteen Original Colonies set it up. [Applause.]

Mr. McCORMACK. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, my colleague and fellow member of the committee, the gentleman from Ohio [Mr. JENKINS] made a certain challenge. Of course, I think it is useless to attempt to answer him on his challenge. However, I do want to point out the fact that certain Members entertain the idea that to submit a matter to the Supreme Court as at present constituted, is entirely wrong. I personally resent this slur upon the present Supreme Court. Aside from personnel it is no different today in its steadfastness and loyalty to the Constitution and the principles of this Nation than the Supreme Court of yesterday. I am perfectly willing to submit any legal question or congressional action to the Supreme Court for its review and decision.

Just from the standpoint of the plain, ordinary layman, I cannot make any distinction as to income. I do not think the sixteenth amendment makes any distinction. It states plainly and in unmistakable English that income from whatever source shall be taxable. There are no ifs, ands, or buts about it. The apportionment feature of the sixteenth amendment has nothing to do with the fact of the taxability of the income. The sixteenth amendment was specifically brought forth and ratified by three-fourths of the sovereign States in order to correct this abuse and to bring under the taxable power of the Federal Government all income. To my lay mind, there is not any question at all as to what the people intended when the Constitution was broadened by addition of the sixteenth amendment; and they are a power even above the Supreme Court.

Mr. Chairman, I have been interested in this subject ever since it was brought out by the decision in the Gerhardt case.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I refuse to yield.

At the time the Gerhardt decision was handed down it was established that a definite threat of financial ruin faced our municipal, State, and county employees, and it was imperative that something be done at the earliest possible date to eliminate that threat. The action of the Court might correctly be interpreted as legislation by judicial decision. We are convinced now that the time has come when all of the taxpayers of the Nation should be treated alike and that every possible safeguard be given employees heretofore exempt; however, there is absolutely no excuse or reason why a businessman, or an employee in private industry should pay a Federal income tax while State and municipal employees are exempted. Aside from that, it might be said

that there is nothing coercive about this bill, forcing the States to adopt income taxes in order to meet the action of the Federal Government. I think such arguments are entirely beside the question. It is a clean-cut issue of establishing and maintaining under judicial interpretation or otherwise, a privileged class who are freed from income taxes, while others must pay them.

So far as I am concerned, my course is clear and well defined. I am going upon the assumption that the Supreme Court will make a decision when the matter is properly presented. More than that, we know that if this House were to vote on legislation only after passing upon constitutionality, according to our individual opinions, we would never pass any legislation.

Obviously, we cannot predict what the Court might do in a given instance. I want to say right now, and I think the Record will bear out what I say, that when the Guffey coal bill was before us and the question of constitutionality was discussed on this floor, the gentleman from Ohio [Mr. JENKINS] did not hesitate to vote for that bill. He voted for it without any mental reservation or any argument whatsoever, because in his district it was considered politically a good bill to vote for.

Mr. Chairman, the bill before the Committee is made absolutely necessary by the decision of the Supreme Court in what is known as the Gerhardt case. Up to the time this decision was rendered all State, county, and city employees, by a previous decision of the Supreme Court, were made immune to Federal income tax, but through the reversal of the Court in this matter all these same employees became subject to Federal taxes and likewise became subject to back taxes for a period of, I believe, 12 years.

More than that these employees were liable, and most certainly would be called upon to pay compounded interest and penalties.

The Commissioner of Internal Revenue was not only obliged to collect the taxes due but had no discretion in the matter of compromising any disputed amounts. As a consequence hundreds of thousands of municipal and State employees throughout the Nation were faced with financial ruin. The retroactive imposition of taxes under the decision would have been a merciless and destructive course to follow. The dictum of the Court was final. The Treasury Department was definitely charged with collecting these taxes, and it became necessary for the Congress to act in order to protect the homes and the meager savings of school teachers, firemen, policemen, and other non-Federal Government employees.

The Ways and Means Committee very wisely, and therefore properly, defined the powers of the Internal Revenue Division of the Treasury Department by limiting the imposition and collection of taxes insofar as non-Federal employees are concerned and confined this power to the future. Retroactivity under this bill is definitely and, insofar as I am concerned, permanently out of consideration. Of course, we do not know what the Senate might do, but, insofar as I am concerned, I shall stand opposed to the retroactivity feature to such an extent as to even vote against the final adoption of this bill should it be amended in this respect by the other body. I say this in spite of the fact it is a bill which originates in my committee and which is intended to render definite relief. The most obnoxious feature of the proposed law naturally would be the enactment of the retroactive clause.

The bill before the House parallels the decision of the Court, excepting that it does not permit collection of back taxes and of the attendant penalties and compound interest. Moreover, it provides for refunds where taxes were paid by employees who, under the law, were not heretofore taxable.

This bill through the reciprocal-taxing privilege while assuming the right to tax non-Federal employees of States, counties, and municipalities, at one and the same time grants to the States the right to impose and collect State income taxes levied upon Federal officials and employees. This, of course, applies only where States have enacted income-tax laws.

I venture to say, Mr. Chairman, that hundreds of thousands of our best citizens employed by the local governments

will breathe a sigh of relief when this bill passes. This class of citizen never sought to evade the payment of taxes. It was only through the action of the Supreme Court that they were made immune, and it would have been nothing short of tragic for Congress to permit this belated reversal on the part of the Court to bring about full restitution.

I personally cannot see anything partisan in the bill before the Committee. I think our Republican friends on the left-hand side of the aisle should be as much interested in eliminating this destructive threat as are the Democratic Members of the majority sitting on my right.

I trust that in the spirit of true Americanism and as good citizens and as Representatives of our respective districts that the membership of the House, generally, will vote to pass the bill by an overwhelming majority. These employees will pay their taxes to the Federal Government as the law originally intended and will do so without complaint. I do not believe they assume for themselves the status of privileged tax-free citizens. Inasmuch as the bill provides for reciprocal taxation on an equality basis, there can be no question of the fairness of the Federal Government toward the States.

Frankly, Mr. Chairman, I will feel a whole lot easier regarding the lot of hundreds of my constituents who through the passage of this bill will be saved from financial ruin.

[Here the gavel fell.]

Mr. McCORMACK. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. O'CONNOR].

Mr. O'CONNOR. Mr. Chairman, I would like to be informed by the gentleman from Massachusetts, who I know is a member of the Committee on Ways and Means, in whom I have the greatest of faith, whether or not we are going to get an opportunity in this Congress to write into the laws of this country a measure to tax the \$50,000,000,000 or more of tax-exempt securities now outstanding and to be issued in the future.

Mr. McCORMACK. The proposal to tax exempt securities is being heard before a committee of the Senate. I do not know why the Senate committee is hearing it. The Ways and Means Committee of the House will conduct hearings on it later.

Mr. O'CONNOR. I may say to the gentleman from Massachusetts and to the Members that I could not conscientiously vote to place a tax upon the income of the poorly paid public servants, including teachers, of this country, who render the highest degree of service of any public servant, yet who are paid the lowest wage. I believe in placing the tax burden upon the people best able to bear it, those who own perhaps fifty or sixty billions of dollars' worth of the wealth of this country in the form of tax-exempt securities, upon the income from which they are not paying one single dime of taxation. Such a bill should be brought before this House. Congress should be given the right to say whether we shall tax them.

I shall, however, upon the word of the gentleman from Massachusetts to the effect that the proposal to tax tax-exempt securities is now being heard before a committee of the Senate, and his further statement that the Ways and Means Committee of the House will later conduct hearings on such proposal, support and vote for the pending measure.

[Here the gavel fell.]

Mr. McCORMACK. Mr. Chairman, I yield 1 additional minute to the gentleman from Montana.

Mr. O'CONNOR. As I said, I will vote for this bill because I am confident from the answer the gentleman gave that such a bill as I plead for is now in the making. I know my farmers in Montana pay taxes three ways. They pay an income tax to the Federal Government; they pay an income tax to the State, and also a tax on their property. Every man or woman who draws a salary should bear his or her proportionate burden of taxation, but, likewise, the people who own this tremendous amount of bonds, the income from which is tax-exempt, should be required to bear their share of the burden; in other words, place the heavy burden of taxation upon those best able to bear it.

Mr. WADSWORTH. Mr. Chairman, will the gentleman yield?

Mr. O'CONNOR. Yes; if I have time.

Mr. WADSWORTH. Does not the gentleman understand that the President in his recommendation on that subject suggests the imposition of a tax on securities hereafter to be issued?

Mr. O'CONNOR. I do not know what he recommends, but for 20 years I have been asking that these tax-exempt securities be taxed. [Applause.]

[Here the gavel fell.]

Mr. McCORMACK. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. VOORHIS].

Mr. VOORHIS of California. Mr. Chairman, this bill is not a matter of levying new taxes; it will not impose an income tax on anybody who does not have an income large enough to come within the scope of the present tax laws; in other words, people who receive small salaries from public funds will be exempt, just as are those who receive small income from other sources, if this bill passes.

I think this is an excellent bill. I think it is a very well balanced bill. I think it makes a very much needed reform in our tax law. After all, the number of public employees is increasing. The tax burden is heavy. How, therefore, can one defend a situation where the very people who receive those tax funds as salaries are themselves exempt from taxation? The Ways and Means Committee obviously cannot levy taxes on behalf of the States against the salaries of Federal employees. I presume if they had that power they would have included it in this bill. They have gone as close to it as they could. It seems to me this is a very well balanced bill and a thing which the country will recognize as a decided improvement over existing laws fixing tax liability.

I believe very much, as I have said before on the floor, that one of the greatest needs of this country is an increasing sense of the interdependence of all groups in this country of all kinds of people; and I hope the passage of this bill will help to build up this kind of spirit and understanding among the people. I am therefore very much in favor of it. [Applause.]

[Here the gavel fell.]

Mr. McCORMACK. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. PATRICK].

Mr. PATRICK. Mr. Chairman, I have been, I think, one of the liberal Members on this floor, and I do not want to go reactionary on anything. I do, however, want to raise a question here as fully as I can go into it in 2 minutes. We have a theory of government in this country that sprang from something, and that something still exists if our Government exists under the theory on which it began. Now, what is sovereignty?

When you say "a sovereign State," you do not refer to the sovereignty of a subdivision of this Nation. There is no such thing as State sovereignty. This is a dual form of government it is true, but we have the central government here. The sovereignty is in the people. They reside in States, but there is actually no such thing as the sovereignty of a State.

I have every sympathy for the purposes of this bill, I have every feeling for the thing it intends to accomplish, but I cannot vote for title I on account of the way I feel about the security of Federal sovereignty, and our national form of government here, our dual form of government. In other words, here we have the central government with its activities, and then a subdivision, a State, reaching up and attaching—and I use that word only in the sense of what will result from this bill—laying hold of the central government through the medium of taxation, reaching out through its taxing power and taking hold of that which emanates from the central activity of the Nation's life. I cannot lend my vote to a measure that must encourage further encroachment upon our original plan of government, so that States, cities, and so forth, may, with the overpowering and destroying power of taxation lay upon that which emanates solely from the Government itself. To adopt this principle may lead us into future complexities and injustices that

will likely cause universal regret and general trouble in the land.

So I think there is a fundamental American principle and theory of government we are here approaching. For this reason I am going to vote against title I of the measure. [Here the gavel fell.]

Mr. TREADWAY. Mr. Chairman, I yield 5 minutes to the gentleman from Kansas [Mr. CARLSON].

Mr. CARLSON. Mr. Chairman, my colleagues who have spoken previously on the measure before us have informed us that this proposed legislation is before Congress because of a recent Supreme Court decision and a letter to Congress from the President of the United States. The President asks if the words written into the Constitution do not mean exactly what they say; namely, that the Government can tax "income from whatever source derived." That sounds plausible and reasonable, but upon further analysis you can readily see that it might have far-reaching consequences. If the Federal Government can tax State bonds or the income from them, or tax the salaries of State officials, as well as the income of the various taxing units of the State and their employees, then we might justly ask, could not the Federal Government, by taxation, destroy State and local sovereignty? It is truly said that the power to tax is the power to destroy. Congress should not act hastily on this matter but should consider it from every angle.

The chairman of the Ways and Means Committee is presenting to the House a bill that deals with this subject. Hearings were held on this legislation, and the committee has reported a bill carrying two titles. Title I of this act relates to the taxing of employees of the State and the subdivisions thereof. It also grants the States the reciprocal right to tax the employees of the Federal Government who are living within the borders of that State. Title 2 of this bill deals with the retroactive taxes which are due the Federal Government as a result of the Supreme Court decision rendered in the case of Helvering against Gerhardt. This section of the law should be enacted immediately in order to clear up the confusion and afford relief to State and local employees who might be subject to retroactive taxation due to the recent Supreme Court decision.

It is my contention that there can be no justification for those on Federal or State pay rolls escaping their share of the taxes. However, in our effort to tax them we must be very careful or we may create a situation that will destroy the very democracy of our Nation. This taxing power could easily be carried so far as to completely centralize our Government. We could easily become a totalitarian state or nation. There is no question but that the citizens of the various States can adopt a constitutional amendment that would provide for this tax as well as other taxes on the States and their subdivisions. There is serious doubt as to whether Congress can by legislative enactment tax the States and their employees without the consent of the State. The testimony produced at the hearing informs us that granting the Federal Government the power to tax State employees cannot be considered as a revenue producer. Under existing tax laws it is estimated it would not produce over \$16,000,000. In 1937, 2,300,000, or 90 percent of the State and local employees, received salaries of less than \$2,500. Therefore, they would all come within the \$2,500 Federal income-tax exemption. Should the Federal Government materially reduce the tax exemption in the future it would greatly increase the revenue. The expenditures of our National Government are increasing so rapidly that most everyone agrees it is only a matter of time until these exemptions must be materially reduced or new sources of revenue must be secured.

It is unfair and unjust to our citizens to continually add tax burdens and make no effort to reduce Federal expenditures. For the next few minutes I want to discuss our Federal indebtedness and our Federal expenditures. The Federal Government has spent \$62,000,000,000 in the last 10 years. If you remove the expenditures incurred during the World War, this amount equals the total amount of money spent

by the Government from the day of George Washington's inauguration until the first day of President Hoover's administration.

It is interesting to note that in 1930, before the deficit began, the Federal debt stood at \$16,185,000,000. In the message as submitted to Congress by the Bureau of the Budget we find at the end of the fiscal year 1940, according to their estimates, the debt will have reached the enormous total of \$44,458,000,000. In other words, we have added a debt of more than \$28,273,000,000 in 10 years.

The Roosevelt administration is responsible for all of this amount with the exception of approximately \$5,000,000,000. It has been the theory of the present administration to secure recovery by pump priming or bring about prosperity by spending borrowed money. The facts are that in 1932 we had a national income of \$40,000,000,000. In 1938 it was something over \$60,000,000,000. These results should prove to anyone that we cannot spend borrowed money continually and secure national prosperity and security. This excessive spending and taxation of our citizens and industries paralyzes business, destroys confidence, and increases our unemployment problem.

On February 1 of this year the national debt amounted to a new all-time high of \$39,684,970,614, and the deficit for the fiscal year beginning last July 1 is over \$2,000,000,000. At the present rate it will be well over \$3,000,000,000 by June 30. At the present time the Federal Government is spending money at the rate of \$18,000 per minute. If we total the expenditures of the State, county, and local governments, we will find it approximates \$17,000,000,000, or more than 25 percent of our national income. This means that every citizen must work 1 day out of every 4 for the Government.

Unfortunately, many of our citizens are led to believe that the rich are going to pay the taxes, that the Federal Government should never hesitate to spend money, as the taxes are always paid somewhere else or by someone else. For your information I am submitting a recent quotation from Roger W. Babson on this subject:

Last year public spending, including not only the Federal but the State, county, and local governments, totaled \$17,000,000,000. This represented more than 25 percent of the national income. Add up the number of individuals getting support from the Government. My figures show 25,000,000. One person out of every six gets his livelihood from the Government. There are only 51,000,000 workers who should be gainfully employed. This means that every private wage earner is not only supporting his family, but another person, on the public pay roll.

Just for illustration, let us take a family which earns \$37 a week, \$150 a month, or \$1,800 a year. Studies show that such a family spends about \$10 per week, or \$500 a year, on food. Of this, 70 cents per week, or \$35 per year, represents hidden taxes. Each year these taxes add over \$5 to the milk bill, \$9 to the butcher's statement, \$5 to the butter and egg man's bill, \$5 to the baker's charges. On every roast of beef there are 127 hidden taxes; on every loaf of bread, 53 unseen taxes.

The average family probably spends \$30 per month for rent. Of this amount, \$7.50 per month, or \$90 per year, is for local taxes. Each year the automobile eats up \$175 of the family's income. In this amount is \$35 for the tax collector. The same official, through 79 separate taxes, takes \$5 out of a \$50 suit. With 143 different taxes, he grabs 50 percent of the price of a package of cigarettes. This newspaper is paying 83 taxes you readers know nothing about. Every movie ticket carries 61 hidden donations to the Public Treasury. And when someone dies, these invisible taxes hit a record high—there are 157 of them.

All told, this average family—which owns no real property and thinks it pays no taxes—forks over \$230 to \$240 of its annual income of \$1,800 for hidden taxes. This represents one-seventh of the total income. It means that for every 6 days the family bread-winner works for himself, he works 1 for the tax collector. (In the case of very wealthy people the reverse is true; they work 1 day for themselves and 6 for the public.) The significant point is that these unseen taxes are rising every year. In 1933 the hidden tax collector forced the wage earner to work only 1 day in 10. How soon will he be working 1 day in 3?

Every dollar that must be spent for taxes by the average citizen is just \$1 less for him to spend for the necessities of life, the conveniences of life, and the luxuries of life. There are so many hidden taxes, which are sometimes called painless taxes, because they are easy to collect, that the average taxpayer does not realize he is paying them. In reality, the butcher, grocer, and landlord actually are tax collectors by adding to the price of his goods the taxes that are placed

against them. In other words, you pay taxes whether you own property or not, which is contrary to general belief.

A group of accountants and experts for the State Committee for Florida Tax Information have compiled much information regarding hidden taxes, and I am asking unanimous consent to have this table inserted in the Record at this point:

20 cents of every dollar you spend goes for hidden taxes

If you spend	\$100 per month		\$150 per month		\$300 per month	
	Amount	Taxes	Amount	Taxes	Amount	Taxes
Expenditures divided as follows:						
Rent	\$20.00		\$30.00		\$60.00	
Hidden taxes		\$6.00		\$9.00		\$18.00
Food	43.00		45.00		72.00	
Hidden taxes		6.88		7.20		11.42
Clothing	12.00		18.00		42.00	
Hidden taxes		2.40		3.60		8.40
General household expenses	11.00		15.00		33.00	
Hidden taxes		1.37		1.80		2.25
Miscellaneous	6.00		7.50		23.00	
Hidden taxes		1.05		1.27		4.02
Amusement	2.00		5.00		12.50	
Hidden taxes		.40		1.00		3.50
Automobiles			21.00		40.00	
Hidden taxes				4.62		8.80
Insurance	5.00		7.00		15.00	
Hidden taxes		.21		.31		.67
Social-security tax	1.00		1.50		2.50	
		1.00		1.50		2.50
If you spend (per month)	100.00		150.00		300.00	
Taxgatherers get (hidden taxes)		\$19.31		\$30.30		\$59.56
Percentage of taxes to total expenditures		19.31		20.2		19.8

Producers, processors, manufacturers and distributors must include the taxes they pay into the cost of their products—therefore, taxes are paid by the ultimate consumer.

There are evidences that this session of Congress will do what it can to reduce Federal expenditures. We should have the cooperation of the President of the United States, but I am afraid that he has in mind greatly increasing the present expenditures. The Budget he presented to Congress called for an outlay of \$9,000,000,000. Since that time we have received additional items suggesting the expenditure of enormous sums for national defense; a suggestion that we construct the Florida ship canal, which has been disapproved by every agency that has investigated it, with the exception of specially appointed commissions, at a cost of \$200,000,000; a suggestion that we carry into completion a wild dream of harnessing the tides at Passamaquoddy at a cost of \$30,000,000.

It is time to call a halt to these wild and extravagant expenditures. [Applause.]

[Here the gavel fell.]

Mr. TREADWAY. Mr. Chairman, I yield the balance of my time to the gentleman from New York [Mr. REED].

Mr. REED of New York. Mr. Chairman, it seems to me that about all the arguments that can be made for and against this bill have been made. I want to speak very frankly to Members on both sides of the House today.

No matter how anyone votes on this bill, I shall not question his motive at all. We are all sworn to preserve, protect, and defend the Constitution, and that, of course, is our responsibility. It is an individual responsibility and it is a tremendous responsibility.

Mr. Chairman, I was very anxious to find out whether or not this bill is or is not constitutional. I know, and you Members must know, that down in the Department of Justice all the legal lights there have studied and combed the decisions of the Supreme Court of the United States and other courts have prepared a book which they have sent, I believe, to every Member of Congress, trying to lead the Congress to enact this legislation. When the attorney who had made this study appeared before our committee I asked him this question:

Do you personally entertain any doubt as to the constitutionality of the proposal which is brought here?

Mr. MORRIS. I do not think I would be candid if I said that the question was one without doubt.

I then asked him this question:

We are in this position: This Congress is being asked to pass such an act, notwithstanding doubt as to the constitutionality of it?

Mr. MORRIS. I am not sure whether Congress would have any doubts about it or not. That is for you gentlemen to determine.

That is after this expert on constitutional law has studied this proposition ever since the President's message came in, yet he is not free from doubt as to the constitutionality of the measure.

Do not misunderstand me. Every man on this floor is on the spot.

You are confronted with what we have stood against not only on this side but on the other side of the House for the last 6 years, and that is having a measure brought in here that is clearly unsound or unconstitutional in one part and in another part has something we should all like to support. You are all on the spot. Logically, since the same principle is involved, there should have been brought in here a bill dealing not only with the mutual taxation of Federal and State officers but also the mutual taxation of Federal, State, and municipal bonds.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. REED of New York. I cannot yield. I have only a very few minutes.

Those features should be in one bill, and they are what we should be passing on. But no, you have inserted in this bill something that terrifies the school teachers, the policemen, and the firemen and causes them to bring down upon the heads of Congress pressure to pass another part of this bill which many of you are convinced is unconstitutional and about which others entertain serious doubt.

Now, I want to call the attention of the Members of the House to what you are asked to do. I want you to understand clearly the history of our income-tax laws as they affect State officers and employees.

I wish you to keep clearly in mind that under the 1913, 1916, and 1917 Revenue Acts we specifically exempted State officers and employees from Federal taxation.

But this exemption was removed in the 1918 Revenue Act.

I want you to keep in mind that for the past 21 years there has been no exemption in the revenue acts for State officers and employees, except that in the 1926 act Congress exempted from retroactive taxation State officers and employees who had relied on exemptions contained in the Treasury regulations from 1918 to 1924.

Bear in mind that there has been nothing to prevent the Commissioner of Internal Revenue going to the Supreme Court to test this question of the taxation of State officers and employees except the Treasury regulations and an opinion of the Attorney General following the 1918 act.

For the purpose of clarification, I wish to mention that the Attorney General in construing the act of 1918 ruled that, notwithstanding the removal of the exemption in the 1918 act, the Federal Government could not tax State officers and employees.

Now, then, bear this in mind: That the Treasury regulations followed that ruling of the Attorney General up to and including the Revenue Act of 1924. Therefore, except for that ruling and the Treasury regulations, there was no exemption in the law to prevent this question's being tested in the courts.

Following the 1924 act, the Treasury Department held that its regulations exempted from taxation only those engaged in an essential governmental function. The Commissioner of Internal Revenue then attempted to collect retroactive taxes on State functions which he considered nonessential governmental functions—municipal lighting plants, waterworks, and so forth.

Today we find ourselves in the same situation that Congress did in 1926—to prevent the injustice of retroactive taxation of State employees who had every reason to believe that they were not taxable. To remedy this situation and prevent

retroactive taxation, Congress inserted the following section in the Revenue Act of 1926:

SEC. 1211. Salaries of State and municipal officers: Any taxes imposed by the Revenue Act of 1924 or prior revenue acts upon any individual in respect of amounts received by him as compensation for personal services as an officer or employee of any State or political subdivision thereof (except to the extent that such compensation is paid by the United States Government directly or indirectly) shall, subject to the statutory period of limitations properly applicable thereto, be abated, credited, or refunded.

I want to stress the point that Congress again left the field wide open for the Treasury to tax State salaries to the extent that they were not immune under the Constitution. In that 1926 act Congress did not place any exemption on future State salaries.

It becomes clearly apparent, therefore, that the salaries of State and municipal officers and employees, under the language of the 1938 Revenue Act, are taxable except as the constitutional immunity rule applies. The act contains no exemption for these employees (sec. 22 (a), Revenue Act of 1938).

So here we are today, asked in this revenue act—not to lift any exemptions out of the law but to say to the Supreme Court by the passage of this bill:

The Congress of the United States expects you to overturn the constitutional immunity against the taxation of essential State functions which has been the supreme law of the land under the Federal Constitution, and so decided by the courts time and time again for more than 68 years, *Collector v. Day*.

I repeat that the purpose of this bill is not to raise revenue, for it is conceded that it will not produce more than \$16,000,000, a sum insufficient under the present spending program to run the Federal Government two-thirds of 1 day.

The purpose is to bring congressional pressure upon the Supreme Court to destroy the fundamental principle that one sovereign power shall not destroy the functions of another sovereign power through the power of taxation, which is the power to destroy.

This bill is here because they know that provision is there and they know they can test the law, but under cross-examination it was developed in the hearing from the attorney from the Department of Justice, the sponsor of this bill, that if Congress will pass this legislation in this form it will bring pressure upon the Supreme Court to override a rule that has been established since the beginning of the history of the Government, to protect the sovereign rights of a sovereign people in their freedom; and that is a part of the Constitution and the sixteenth amendment has not changed it. "From whatever source derived" cannot be lifted from its context.

We know the evil at which the sixteenth amendment was directed. The Court had held that you could not impose a tax upon the income from real estate or from personal property without apportionment. The people wanted an amendment that would have the effect—and all the debate here has brought out that this was the understanding of the States when they ratified that amendment—of making it possible for the Federal Government to tax the incomes from these two sources without apportionment. That is all in the world the sixteenth amendment did.

Now, let me talk to you on the majority side. I am earnest and sincere and I want you to think this over. The same principle is involved in this bill that is involved in the bill that is to follow—taxing municipal bonds. I know that 60 percent of the resources of the country on which industry can be developed are in the South, where you have electric power. I know the men who are in this city today working to get war industries located in your section of the South. Nobody begrudges you that development. But let me tell you that when you tax municipal bonds you tax the borrowing power, the only power that will enable you to take advantage of your resources. I can give you an illustration by what happened in a little town in western New York. They raised money from the bootblacks and from everybody in the community to bring a certain industry to their town. The representatives of the industry said, "As a condition precedent we must

have hospitals, we must have schools, we must have pure water, and we must have recreation. We are going to have high-class employees." Without the borrowing power the town could not have obtained that industry. You will find it out soon enough in the South.

I am urging you today to sustain this principle that has been the very lifeblood of the communities of this Nation and has kept one sovereign power from encroaching upon the liberties and the freedom of the other. Just as soon as you open this Pandora's box it is going to come back to plague you.

There is nothing reciprocal about this tax, not at all. We step into the States and say, "We are arbitrarily going to tax your instrumentalities." We pitiful little Members of Congress that come and go, what do we amount to compared to the principle involved? We are saying meekly here today, "We consent that the States shall tax this great sovereign power regardless of the damage it may do in the future." Another Congress can come along and immediately revoke that power, but still we are in the States taxing the instrumentalities of government which the courts and the Constitution have sought to protect through all these years.

This is no small, picayune affair. Here we are dealing with fundamental principles. The principle involved in this bill is the very principle that in 1819 Daniel Webster, with his wonderful ability, spent 9 hours establishing before the Court, the principle that the power to tax is the power to destroy. [Applause.]

[Here the gavel fell.]

Mr. McCORMACK. Mr. Chairman, I yield the balance of my time to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, as has been well pointed out by several gentlemen who have preceded me, the pending measure, H. R. 3790, is now before this body for consideration in response to two messages from the President of the United States, one sent to the Congress on April 25, 1938, and the other on January 19, 1939.

Many questions have been raised here as to the desirability of this type of legislation. Many gentlemen have raised the question of constitutional validity. Certainly every man has a right to his own views and his own convictions. I have never had any disposition to question the views of any of my colleagues as to the constitutionality of any measure presented here. It is rather interesting to observe in passing, however, that sometimes matters of this kind trouble us in different ways. I cannot keep from recalling that my distinguished friend and colleague on the committee, the gentleman from Ohio [Mr. JENKINS], who spoke here at some length, taking the position that there could be no doubt that the pending measure is clearly unconstitutional, a few years ago differed with me on another measure, and at that time the situation was just the reverse of what it is now. When the first Guffey coal bill came before the Committee on Ways and Means for consideration I studied it for a long time. I spent many hours at night, and, after attending church on Sunday, spent the balance of several Sundays examining the legal authorities.

I reached the definite conclusion that that bill was clearly unconstitutional. I spoke against it in this Chamber and I voted against it, but nothing of that kind disturbed my friend from Ohio. He supported the bill, spoke for it, and voted for it, and for one time at least I guessed right with the Supreme Court because the Court held the act unconstitutional.

Mr. JENKINS of Ohio. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I yield to the gentleman with pleasure.

Mr. JENKINS of Ohio. Is it not a fact that the Guffey coal bill is an active, affirmative statute today and the principle upon which the Supreme Court held it unconstitutional was because of the failure of the proper officials to make it enforceable?

Mr. COOPER. I do not propose to go into a reconsideration of the Guffey coal bill. That was not the purpose of my reference, but simply, in passing, to call attention to the fact that on that occasion I took the position that the bill

was unconstitutional and I guessed right with the Court, while the gentleman from Ohio took the position that the bill was constitutional and happened to guess wrong with the Supreme Court.

Let us just bear this in mind from a practical standpoint in the matter of the constitutionality or the legal questions involved in this or any other measure presented to this body for consideration. There is a vast difference of opinion among the best lawyers of this Nation and a vast difference of opinion among the judges themselves as to the very question presented here.

I need only to remind you of the experience of a great President of the United States and a great Chief Justice of the United States, Hon. William Howard Taft, who, as President of the United States, vetoed a bill because he felt it was unconstitutional, yet when the bill was passed over his veto and reached the Supreme Court of the United States it was held constitutional. Now, if Chief Justice and President Taft could make a mistake now and then about the legality or the constitutionality of a measure enacted by the Congress, I do not believe any of us are subject to such great censure or condemnation if we may guess wrong now and then as to the course the Supreme Court may take.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. COOPER. With pleasure.

Mr. McCORMACK. I also call to my friend's attention the fact that the Court itself has reversed itself. For instance, in the child-labor cases the Supreme Court declared the child-labor legislation unconstitutional and since then it has been held to be constitutional.

Mr. COOPER. I appreciate the gentleman's contribution.

It is extremely difficult for us here to pass upon this question. I do not think it is unreasonable at all to follow the suggestion offered by some of those who have preceded me that the only final and definite way that a matter of this kind can be determined is by presenting it to the Supreme Court of the United States.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. COOPER. With pleasure.

Mr. MOTT. I have a great deal of respect for the gentleman's legal learning, and it is for that reason I ask him this question, and I think his answer will be valuable.

Mr. COOPER. The gentleman is far too generous.

Mr. MOTT. In the gentleman's opinion, what provision of the Constitution or what ruling or in what case in the Supreme Court warrants a person in believing that a bill of this kind would be constitutional?

Mr. COOPER. I simply invite the gentleman's attention to what I think is a rather practical situation. There are two schools of thought in the country embracing some of the best legal talent the Nation affords in each of these schools of thought. One school of thought has proceeded throughout a number of years in taking the position that a constitutional amendment is necessary. Another school of thought, which I think is just as impressive, has proceeded throughout a number of years in taking the position that a constitutional amendment is not necessary. Now, the Department of Justice spent considerable time on this matter, and quite a number of lawyers under the personal direction of an Assistant Attorney General spent quite a long time during the summer and fall considering the questions involved here. I invite the gentleman's attention to the report made which was submitted to the Ways and Means Committee and in which they recommend this legislation. They sustain this position by analyzing all of the decisions of the courts bearing on this question and reach the conclusion that, irrespective of the sixteenth amendment, this measure has a reasonable basis of constitutional authority, and they take the position that with the sixteenth amendment the measure can reasonably be accepted as constitutional.

Much has been said about the sixteenth amendment. Let us refresh our memories as to the exact language of the sixteenth amendment. In my limited capacity I simply read

it and interpret it as I have always been taught to read and interpret the plain English language:

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

It occurs to me that that means just what it says. I know some decisions have been rendered by the Supreme Court since the adoption of the sixteenth amendment, some of them relating to decisions handed down by the Court many years before the sixteenth amendment was ever adopted, but in my interpretation of the plain English language I believe that is authority for the provisions of this bill and I do not believe there is any decision of the Court that is directly in conflict with the position that I here take.

Mr. WOLCOTT. Mr. Chairman, will the gentleman yield?

Mr. COOPER. Yes.

Mr. WOLCOTT. May I observe briefly that in Mr. Justice Black's dissenting opinion in the Gerhardt case he commented on the fact that the case of Brushaber against Union Pacific, and other cases, held contrary to the gentleman's assertion, and recommended that there be a re-examination of those cases.

Mr. COOPER. I cannot yield further to the gentleman, but certainly the distinguished gentleman from Michigan is not citing a dissenting opinion.

Mr. WOLCOTT. I am, because Mr. Justice Black takes the position which the gentleman takes and comments on the fact that the Supreme Court had already interpreted the clause "from whatever source derived" and that it did not include the salary of State officials and he said there should be a reexamination of the case because of that.

Mr. MOTT. Mr. Chairman, will the gentleman yield further?

Mr. BUCK. Mr. Chairman, I call the gentleman's attention to the fact that Mr. Justice Black's opinion, while separate, was a concurring opinion, and not a dissenting opinion.

Mr. COOPER. Yes. I did not mean to leave the impression that it was dissenting. Mr. Justice Black concurred in the opinion of the Court, but upon some separate reasons.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I regret I cannot yield further. I want to get to some practical phases of this matter. I am sorry that time will not permit a more lengthy discussion of the legal questions here involved, but I believe after this painstaking, deliberate, and careful study made by the Department of Justice and the position they take in coming before our committee and recommending this legislation, we may not be unduly disturbed by any question of legality with reference to this measure.

I shall take a few minutes to invite attention to a few practical phases of this problem. Let us bear in mind that to vote against this measure we must place ourselves in the position that we favor a preferred group of people in this country in the matter of the payment of taxes to support this Government and that that preferred group are those people who are holding public office, receiving their compensation from the taxpayers of the country.

For my part I cannot see how that is fair or a reasonable position to take. These very people sought to be taxed here are those who are receiving their compensation by virtue of holding public office and their compensation comes from the taxpayers of this country. Yet in some way we must say that they should occupy a preferred status in the matter of paying taxes, if we vote to defeat this measure.

Mr. COOLEY. Mr. Chairman, will the gentleman yield?

Mr. COOPER. Yes.

Mr. COOLEY. Does the gentleman take the position that McCulloch against Maryland and Collector against Day are no longer the law of the land, and have in effect been overruled?

Mr. COOPER. I am not taking that position, but I have tried to cover the legal phases briefly, and I am now trying to touch on some of the practical matters.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. COOPER. I cannot yield further. Since this decision in the Gerhardt case, in which it was held that certain local officials and employees are taxable, we have had a most confusing situation, which now exists. The Commissioner of Internal Revenue is receiving numerous requests from all types and kinds of local officials and employees, school teachers, firemen, policemen, all types and kinds of local employees, asking whether or not they are now taxable.

In view of the present state of the decisions he cannot intelligently advise them. He cannot be safe in telling them that they are not subject to tax, because he cannot know. One of the main purposes of the effort being exerted here is to try to clear up the situation, so as to have at least a fair starting point, based upon fairness and equality to everybody, and provide under this measure, title I, that the State, county, and municipal employees shall pay their fair and proper share of taxes to the support and maintenance of their Federal Government. Likewise that the Federal employees shall pay their fair and proportionate share toward the support and maintenance of their State governments.

There is a great deal of confusion even now. A great many of the leading newspapers throughout the country carry information that Federal officials do not pay Federal income taxes. We know that all of us and the President of the United States now pay Federal income taxes. The purpose of this measure is to try to equalize and have a fair situation for everybody. [Applause.]

The CHAIRMAN. The time of the gentleman from Tennessee has expired. All time has expired. The Clerk will read.

Mr. McCORMACK. Mr. Chairman, I am going to submit a unanimous-consent request for the purpose of bringing whatever controversial parts of the bill there may be as quickly as possible before the Committee. I ask unanimous consent that the bill be read by title.

Mr. WOLCOTT. Mr. Chairman, reserving the right to object, I think in view of what I previously stated concerning the limitation upon the time to debate this highly controversial and fundamental question this bill had better be read section by section in order to give some of the Members who have not had time to talk on the bill an opportunity to do so under the 5-minute rule. For that reason I am constrained to object.

The CHAIRMAN. Objection is heard. The Clerk will read the bill by sections.

The Clerk read as follows:

Be it enacted, etc., That this act may be cited as the "Public Salary Tax Act of 1939."

TITLE I

SECTION 1. (a) Section 22 (a) of the Revenue Act of 1938 (relating to the definition of "gross income") is amended by inserting after the words "compensation for personal service" the following: "(including personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing)."

(b) The amendment made by this section shall apply only to taxable years beginning after December 31, 1938.

Mr. REED of New York. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REED of New York: Beginning on page 1, in line 6, strike out all of section 1.

Mr. McCORMACK. Mr. Chairman, I would like to ask the gentleman if he will yield, to see if we cannot agree on time.

Mr. REED of New York. I yield.

Mr. McCORMACK. I ask unanimous consent that all debate on this section and all amendments thereto close in 20 minutes.

Mr. MOTT. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard. The gentleman from New York [Mr. REED] is recognized for 5 minutes.

Mr. REED of New York. Mr. Chairman, if this amendment is agreed to, I will move to strike out the balance of title I.

The last speaker, the distinguished gentleman from Tennessee [Mr. COOPER], painted a very pitiful picture in regard to what might happen to these people who may be subject to retroactive taxes if this bill were defeated. This is not the first time that question has come up. That is a matter that can be handled very quickly on the floor of this House, as was done in 1926. People were relieved of retroactive taxes when the Treasury went out and sought to collect taxes.

When the gentleman talks about a preferred class of taxpayers the position of the Members of this House who are opposed to this bill is not that they object to these taxes, provided the people of this country decide they want to change the Constitution. They can do that under an amendment.

We are approaching the birthday of George Washington, and it might not be inappropriate to read just a few words from his Farewell Address. He said:

If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance in permanent evil any partial or transient benefit which the use can at any time yield.

It might be well to keep that in mind when we know the motive and purpose of this title I, coupled with these retroactive taxes.

When the attorneys of the Department of Justice were before our committee I asked them how long it would take them to test this proposition in the courts. They said they did not know, but probably 18 to 20 months. We know from experience with the eighteenth amendment that the people wanted to make a change in the Constitution, and they did it in 9 months. If this administration is so keen to reach this proposition they can reach it in an orderly way.

One of the Members on the other side said we are casting reflection upon the Court; that we were not trusting the present Court. Well, I happen to be one, at least, who is willing to give the Court the full benefit of the doubt. I have always had confidence in the Supreme Court of the United States, but I will not lower myself nor stultify myself to the extent of being a cat's-paw to a little group who wants to slide in around the Constitution through some chink they think they can find and bring pressure to bear upon the Court, assuming it will yield to that pressure, to overrule this precedent that has been established to protect the States and the Federal Government, for more than a century. I think the time has come for us to stand up here like men and vote on principle, and not resort to these subterfuges to tear down, to wreck, to ruin, to coerce a coordinate branch of the Government, the chief function of which is to guard the liberties and institutions of a free people. The Court is the people's Court.

If you strike out title I, but keep in title II, you will have accomplished your purpose. Then let us come back here in an orderly fashion and consider the other question. Let the head of this administration stand up as the President of a sovereign people should and approach this thing as provided in the Constitution, by a constitutional amendment, giving the people of the 48 States an opportunity to say, as the sovereign citizens, whether they want this plan of taxation installed in this country. [Applause.]

[Here the gavel fell.]

Mr. McCORMACK. Mr. Chairman, I wish to see if we can reach an agreement on time. I want to be liberal. I do not want to make a motion, but I would like to see if we could agree by unanimous consent to limit debate on this particular amendment to 20 minutes.

Mr. REED of New York. Reserving the right to object, Mr. Speaker, I would remind the gentleman that time for debate has been very limited and many Members wish to express themselves.

Mr. McCORMACK. Then, Mr. Chairman, I modify my request and ask unanimous consent that all debate on this amendment close in 35 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. COOLEY. Mr. Chairman, I desire to speak in behalf of the amendment.

Mr. Chairman, obviously it is not possible for me to fully express my views concerning the bill now under consideration within the brief space of time which I am permitted to use, but in the time at my disposal I want to make a few brief observations.

The case of *McCulloch* against State of Maryland et al., which was decided in the year 1819, first came to my attention when I was a student in the law school at the University of North Carolina. I am convinced that neither that case nor the case of *Collector v. Day* (11 Wall. 113) has been overruled by the Supreme Court, or in any way modified by any decision of the Supreme Court which has been subsequently rendered. Both decisions are still authorities in this Nation and both constitute at the present time the law of the land. The constitutional immunities referred to in the course of this debate have been recognized for more than a hundred years in every decision rendered by the Supreme Court bearing upon the point. I do not believe that this bill as a matter of public policy should be adopted. Neither do I believe that it is compatible with the dual system of sovereignty under which we have functioned for 150 years. I firmly believe that the measure is unconstitutional. At least I know that all of the decisions I have read lead my mind conclusively to the opinion that the Supreme Court will hold it unconstitutional if it is ever presented to the Court in the form it is now proposed. On the other hand, no decision I have read persuades me to a contrary opinion. The case of *Helvering* against Gerhardt, decided by the Supreme Court on May 23, 1938, does not furnish any basis for a belief that the Court will overrule itself and hold that the Federal Government has a right to impose a tax upon the instrumentalities of the sovereign States of the Union, nor does the opinion in the Gerhardt case lead me to believe that the Court will uphold any act which attempts to give to the States a right to impose an income tax upon the instrumentalities of the Federal Government.

The fact is the case of *Helvering* against Gerhardt is not even a case in point. In that case the Court held that the employees of the Port Authority of New York were not employees of the State or of a political subdivision of it, and in that opinion the Court stated that it expressed no opinion as to whether a Federal tax may be imposed upon the Port Authority itself with respect to its receipt of income or its other activities. Even in the Gerhardt case, about which we have heard so much during the course of this debate, the "constitutional immunities" are clearly recognized. I doubt very much that any reputable lawyer will state to this House that in his opinion the proposed act is constitutional.

The section which the pending amendment seeks to strike out is the section which would subject all of the employees of the several State governments to a Federal income tax. This means, of course, that not only the Governors, the chief executives of the several States, together with the heads of the several State departments, but all other employees of the State, including the poorly paid teachers in our public schools, would be forced to pay a Federal income tax upon the salaries they receive for the public services which they render. Not only the teachers but those in the departments of public health, industrial commissions, social work, and in every other capacity, would have a Federal income tax imposed upon them. If we destroy and annihilate the traditional principle of constitutional immunities, the Governors of the sovereign States would have to pay a Federal income tax upon a fair rental value of the Governors' mansions which they are permitted to occupy, because certainly the occupancy of the Governor's mansion is an emolument of the office. The State of New York in imposing an income tax upon the income of the President of the United States could, of course, consider his occupancy of the White House as one of the emoluments of his office, fix a fair rental value upon the White House and premises, force the Presi-

dent to list it as an item in his income-tax return, and impose a State income tax upon the value fixed.

It cannot be argued that this is not contemplated, nor can it be argued that officers of the Army and Navy, occupying quarters furnished by the Government, could not likewise be forced to pay income tax upon a fair rental value of the quarters they are permitted to occupy, since clearly their occupancy of the homes and quarters furnished to them constitutes an important part of their income. Conceivably even the States might insist that a fair rental value of the offices which we are permitted to occupy as Members of Congress constitute a part of our pay and, therefore, should be subjected to a State income tax. I believe that the enactment of this bill in its present form would bring about great confusion and accomplish very little good.

I understand that there are 17 States in the Union in which there is no State income-tax law. Would it be fair for the Federal Government to impose a tax upon the State employees in these States when the States themselves would be prohibited by their own constitutions from imposing a reciprocal tax upon the salaries of Federal employees who are residents of the States affected.

Does anyone suggest that the thousands upon thousands of Federal employees residing in the District of Columbia would in any way be adversely affected by the passage of this measure? They have no income tax in the District of Columbia other than the Federal income tax. Members of Congress and other Federal employees pay a Federal income tax upon their salaries and State income tax upon other incomes earned in the States in which they retain their residence. If more revenue is needed to support the Federal Government, and if those receiving salaries from the Federal Government are not now paying a sufficient tax upon the salaries they receive, additional tax can easily be imposed.

When the advocates of this measure discuss the constitutional question involved, they wind up their arguments by stating that by the passage of this act the question can be clearly presented to the Supreme Court. There are, of course, other ways in which the question may be presented which will not involve the far-reaching effects of the proposed measure. It occurs to me that this act is inspired by a desire on the part of the Federal Government to enter another field of taxation and to take into the grasp of the Federal Government all of the employees of the several States.

If there is serious question as to the liability of State employees to the income-tax provisions of the Federal law, and if there is fear that the Federal Government will attempt to impose retroactive taxes upon State employees, then, of course, we should pass title II of the pending measure; and I have no objection to the passage of title II, notwithstanding the fact that I do not believe that the Federal Government even now has any right to impose an income tax upon State employees. I do not want to question the sincerity of the advocates of this measure, but I do not believe that the interrelation between title I and title II make the passage of this bill in its entirety imperative. If it is the sincere wish of the sponsors of this measure to protect State employees from the imposition of retroactive taxes, why not pass title II and leave the fundamental questions presented in title I to a determination of the people of this Nation by permitting them to vote upon a constitutional amendment, which will settle the question for all time to come?

Mr. COOPER. Mr. Chairman, will the gentleman yield?

Mr. COOLEY. I yield for a question.

Mr. COOPER. The gentleman will admit that title I is the heart of the bill, will he not?

Mr. COOLEY. No; I do not admit that, although it is an important part of the bill. [Applause.]

Mr. DUNCAN. Mr. Chairman, the gentleman who has just spoken [Mr. COOLEY] seems to favor the motion to strike out this section on the ground of principle primarily. I cannot agree with that, and I do not believe the Members of this House agree that a school teacher, a deputy county clerk, a fireman, a policeman, or an individual who works for a State government or subdivision should be any more exempt from

the provisions of a Federal income tax than the man who works in a store, than the plumber, the bricklayer, or the man or woman who earns his or her bread by the sweat of his or her face. I cannot justify that sort of thing in my own mind.

It has been my experience not only during the recent years of depression but all of my life, particularly my public life, that there are many thousands who are always ready and willing to assume the duties of public service and to accept the compensation that goes along with it. I think they would be perfectly willing to pay the small income tax that the Government exacts from them on the salary they draw from the States. There are so few, after all, who would be subjected to the income tax.

As I recall, the average salary is about \$1,424. There is a question as to whether or not the decisions which have been spoken of are still law. Mr. Chairman, I admit that the Supreme Court has not overruled any of those opinions. I say to you, on the other hand, if the question of the Constitution is bothering you, that there is not one single, solitary word or syllable in the Constitution of the United States which specifically prevents the Federal Government from taxing the instrumentalities of the States nor prevents the States from taxing the instrumentalities of the Federal Government.

Mr. CELLER. Will the gentleman yield?

Mr. DUNCAN. I yield to the gentleman from New York.

Mr. CELLER. Does not the judicial interpretation indicate that the Congress cannot do that, so that the Federal Government might be in a position to tax the instrumentalities of the States, which would impinge the States, and vice versa?

Mr. DUNCAN. The Supreme Court has decided that, but I still say there are no words in the Constitution of the United States so holding or directing—not one word or syllable.

Mr. COOLEY. Will the gentleman yield?

Mr. DUNCAN. I yield to the gentleman from North Carolina.

Mr. COOLEY. In all of the decisions rendered by the Supreme Court bearing upon this question I will ask the gentleman if they have not recognized constitutional immunities?

Mr. DUNCAN. That is true.

Mr. COOLEY. May I ask one other question?

Mr. DUNCAN. Beginning with the decision in *McCulloch* against Maryland, when the question first rose.

Mr. COOLEY. Is there anything at all in the *Gerhardt* case which persuades the gentleman to believe that the Supreme Court will hold the present act constitutional?

Mr. DUNCAN. My answer to the gentleman is that as I read the *Gerhardt* case the only thing the Court decided was whether or not those employees were engaged in an essential governmental function.

[Here the gavel fell.]

The CHAIRMAN. The gentleman from Michigan [Mr. WOLCOTT] is recognized.

Mr. WOLCOTT. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, so far as has been pointed out here today, the principle enunciated in the *McCulloch* case and the *Day* case has not been modified in any particular by the *Gerhardt* case or any other decision of the Supreme Court. It has always held exactly as it held in the *Gerhardt* case. I think the principle of those cases is summed up in *Helvering v. Powers* (293 U. S. 214), in which the Court in substance had this to say:

The power of the Federal Government to tax the functions of a State or political subdivision, or the State employees engaged in carrying out such functions, depends upon whether or not such functions are of an essential governmental character. States and political subdivision have two kinds of power; one that is governmental and public, and one that is proprietary and private. In the exercise of the former, the State and its political subdivisions are clothed with sovereignty and are immune from Federal taxation, but in the exercise of the latter power the State or political subdivision is treated as a private individual and, therefore, subject to Federal taxation. A State or political subdivision cannot escape Federal taxation by engaging in businesses

which constitute a departure from usual governmental functions even though such enterprises are undertaken for what the State concedes to be for the public benefit.

There is no decision of the Supreme Court down to and including the Gerhardt case which changes that fundamental principle.

Mr. CELLER. Will the gentleman yield?

Mr. WOLCOTT. I yield to the gentleman from New York. Mr. CELLER. The Supreme Court has been known to change its decisions. I have in mind, for instance, a decision in the case of Eisner against Macomber, in which the Court held you could not tax stock dividends. A decade later the Supreme Court changed its point of view and said we could consider stock dividends as income.

Mr. WOLCOTT. I thank the gentleman for his observation.

Mr. Chairman, bear in mind if the Court wanted to change its opinion, if it wanted to modify this principle, if it wanted to overrule itself, it could have done so very easily in the Gerhardt case, because it referred to the policy enunciated in the Day case several times in that decision. It had every opportunity to overrule itself if it had cared to do so.

Mr. Chairman, I want to make one more observation. I hope the Committee will refer to page 9 of the hearings and read there a digest of the decision of the Circuit Court of Appeals for the Seventh Circuit in Commissioner of Internal Revenue, petitioner, against Charles C. Stillwell, which I think is the last word on this question. Later on I think probably it might be well for some of us to point out some of the high points of that decision and read them in the Record.

The court in that case, as late as January 12, 1939, summing it all up, said:

True, as argued, in the meantime certain regulations have been promulgated by the Treasury Department, evidently with the purpose of making such compensation subject to income tax, but if immunity exists as a constitutional matter, as we think it does, no regulation could alter the rights of respondent, and we have no right to alter the Constitution in this respect by passing this law.

The Congress has no more right to amend the Constitution by statute than has the Treasury Department to amend it by regulation.

The CHAIRMAN. The gentleman from Ohio [Mr. JENKINS] is recognized.

Mr. JENKINS of Ohio. Mr. Chairman, I want to talk a little practical politics again. In connection with my consideration of this bill I find there are many Members who believe they would rather have the matter submitted to the people through a constitutional amendment. If you happen to be in that class, this is your chance. Vote to sustain this amendment.

What will be the result? It will take out section 1 and, of course, will take out section 2. This will follow as a matter of necessity. This will leave the field open to come forward with a proposal to amend the Constitution. Let us go about this in a legal, constitutional way and let the people themselves decide. Let the people themselves say what they want.

There is quite a large group here that believe in this. They would like to get rid of the first title, but they would also like to vote for the retroactive provision. This is your grand opportunity. If you vote to strike out the first section, the following sections will go out, and then you will have title II, the retroactive feature, left in the bill. If you have any fears about the retroactive feature, or if you have any constituents who are fearful about what the administration, and I mean by that the Treasury Department, will do, you will be amply protected by voting for the second title. You need have no fears about that. The administration will not seek to collect taxes retroactively when the Congress has once indicated its views. The Treasury will adhere to what the Congress does today.

I wonder if the Members really appreciate the enormity of what we will do today if we enact title I into law. How many people in your State will be reached by Federal taxation? Literally tens of thousands. I dare say that in large States like Ohio taken together a million people will be

reached by this taxation. Then, as I said in my statement awhile ago, we in Ohio will be forced to counteract that with an income-tax law tax.

Mr. Chairman, some cases have been referred to here today that have been a source of much trouble to the Supreme Court on the question of how far this rule of immunity recognized between the States and the Government shall go. The Supreme Court was hard put in the Gerhardt case in determining whether or not the two men in question who worked for the Port of New York Authority came within or without the immunity. When you apply that rule to a great State like Ohio or Pennsylvania you apply it to all the employees of the industrial commission, for example, to the tax commission, and no doubt there are tens of thousands of employees in these commissions. And you apply it to the employees of the welfare divisions and all other such divisions of government that are a vital part of the State government. Then where are you going to draw the line? Where is the line of demarcation to be drawn? It is clear to me there will be literally thousands upon thousands of test cases brought in all the States of the Union. As the gentleman from New York, Mr. WADSWORTH, stated so emphatically and so eloquently a while ago, the State of New York could reach out and tax the salary of the President of the United States.

Mr. WADSWORTH. Mr. Chairman, will the gentleman yield?

Mr. JENKINS of Ohio. In just a moment.

If the State of New York does that, why cannot the State of Pennsylvania do the same thing? When we start on this program of taxing the office who is going to say to us in Ohio that we cannot tax the salary of the President for he is our President, regardless of whether or not he lives in Ohio? If we are going to tax the office, why cannot Georgia do that, and why cannot Arkansas do that? I just cite this to show you that we will be in an interminable mess. Why not be satisfied with a course that has stood the test of time, that has grown up over 120 years as the greatest Nation in the world? Why throw us into conflict and have constant recrimination between the States and the Federal Government? [Applause.]

[Here the gavel fell.]

The CHAIRMAN. The Chair recognizes the gentleman from Montana [Mr. THORKELOSON].

Mr. THORKELOSON. Mr. Chairman, I wish to express my opinion on this bill before I vote on it. I am in favor of striking out title I, I am in favor of the pending amendment, and I would also vote against the whole bill, because the bill is not necessary. However, I am in favor of taxing Federal employees, from the highest to the lowest, but I am not in favor of retroactive taxation.

What I object to more than anything else is the manner in which this bill comes to us. You recall that some time back a message came to us from the White House in which the President stated that in order for the Treasury Department not to impose retroactive taxes it would be much better to pass this bill. That is the trick they always use in passing these bills.

The incentive that is held out in this bill is that if you pass the bill it will permit Federal employees to be taxed; but you must remember that your State cannot tax Federal employees who are living in the District of Columbia, but only those who are living in your own State. You could build up a great District here by having all the Federal employees who can possibly do so move into the District of Columbia and live here at the expense of your States. That is what will happen.

The real purpose of the bill is to destroy States' rights, and that is what I object to. So the threat is to save a certain group from retroactive taxation, which also is not constitutional, and the promise that if you pass the bill you may tax Federal employees. But, remember, you have jeopardized the States' rights.

We are here to represent our people and to protect their rights, and if any question comes up in regard to what you ought to do or ought not to do, all you have to do is refer to the ninth amendment to the Constitution. [Applause.]

[Here the gavel fell.]

Mr. MOTT. Mr. Chairman, during the course of my remarks in the general debate on this bill the distinguished gentleman from Massachusetts [Mr. McCORMACK] asked me to yield for the purpose of correcting what he conceived to be an error on my part in quoting him as having stated in debate that this bill should be passed notwithstanding any doubt Members might entertain as to its constitutionality. The gentleman then observed that he had never stated that a Member should vote for the bill if he were absolutely satisfied beyond doubt that it is unconstitutional, but that what he did say was that if a Member had a proper and reasonable doubt he should resolve that doubt in favor of the bill's constitutionality. By this he meant, of course, for it would be impossible to construe his language otherwise, that a Member should vote for the bill notwithstanding any "proper and reasonable doubt" he may have as to its constitutionality.

I cannot agree with the gentleman's reasoning, any more than I could agree at the time with the reasoning of the President when in the last Congress he sent his historic letter to the chairman of a committee of this House urging that the bill then before it should be immediately reported and passed by the House notwithstanding any doubt, however reasonable, that the committee might have as to its constitutionality. Such reasoning, in my opinion, is alien to the whole idea of constitutional, representative government, and it is certainly alien to the almost universally accepted idea of what the function and responsibility of the Congress is.

Mr. Chairman, you cannot entertain a "proper and reasonable doubt" as to the constitutionality of a bill and at the same time believe that the bill is constitutional. And if you do not believe a bill to be constitutional, how can you vote for it and still fulfill the obligation of your oath as a Member of the House to uphold, maintain, and defend the Constitution?

Is any gentleman here convinced in his own mind that this bill is constitutional? If he is, he has failed to say so thus far in this debate. Does any gentleman even believe the bill to be constitutional? If he does, he has refrained, so far as I have been able to observe, from stating that belief on the floor of this House today.

Why is this? The reason, it seems to me, is obvious. It is because there is no ground, either in the Constitution itself or in any of the decided cases of the Court whose exclusive function it is to interpret the Constitution, upon which to base a valid argument, or even to venture a serious opinion that a bill of this kind is permitted by the Constitution.

When the distinguished gentleman from Tennessee [Mr. COOPER] was on the floor I took occasion to inquire of him what constitutional provision or what ruling of the Supreme Court would warrant anyone in believing this bill to be constitutional.

The gentleman from Tennessee did not answer my question. He referred me instead to the report of the Department of Justice on the desirability of passing this bill and to some of the observations of the administration attorneys who drafted it, not one of whom, so far as I know, has stated it to be his belief that it is constitutional.

Mr. Chairman, how can anyone possibly be of the opinion that this proposal is constitutional if McCulloch against Maryland and Collector against Day are still the law of the land and if they still constitute the Supreme Court's interpretation of the constitutional authority of the Federal Government to tax an instrumentality of a State and of the constitutional authority of a State to tax an instrumentality of the Federal Government? I would like to have some gentleman answer that simple question.

In McCulloch against Maryland, in Dobbins against The Commissioners of Erie, and in Collector against Day it was held so clearly that no subsequent Court has ever questioned it, that the Federal Government cannot tax an instrumentality of a State and that a State cannot tax a Federal instrumentality. And that interpretation of the Constitution has not only never been modified by any subsequent decision of the Supreme Court but, on the contrary, every subsequent decision on that point has strengthened and fortified the Court's original declaration. If this is a fact, and I have

never yet heard anyone dispute it, then this bill cannot be constitutional for the simple reason that it proposes that the Federal Government may tax the instrumentalities of a State, and that a State may tax the instrumentalities of the Federal Government.

It is needless to observe here, I presume, that both a Federal officer, as such, and the payment of a salary by the Federal Government to a Federal officer are instrumentalities of the Federal Government and that a State officer himself and the salary paid him as compensation for his services as such are instrumentalities of the State. The language of Collector against Day and of Dobbins against The Commissioners of Erie, which followed McCulloch against Maryland, is unambiguous and definitely decisive upon that point, as every lawyer in this body is aware.

The reasoning in McCulloch against Maryland, in Collector against Day, and in Dobbins against The Commissioners of Erie is perfectly familiar and perfectly understandable to everyone, whether he be lawyer or layman. The reason and the logic of the Supreme Court's interpretation of the Constitution in that regard was that the State is a sovereign power in respect to its instrumentalities and that the Federal Government has no right to interfere in any way, either by taxation or otherwise, with any of the sovereign instrumentalities of that State. One of the sovereign instrumentalities and prerogatives of a State is to issue bonds or securities in any manner and upon any terms or conditions it may see fit. The Federal Government has no right to go into a State and say, "You cannot issue a tax-exempt security," or "If you issue such a security we will tax it, whether your State law declares it to be tax-exempt or not." The State has a sovereign right to employ such officers and to pay them such salaries to help maintain the government of that State as the State may please, and the Federal Government has no right to go into the State and say, "If you pay a certain salary to one of your officers we will change and reduce that salary by taxing it."

To do this is unconstitutional. It is unconstitutional for the simple and sufficient reason that the Supreme Court of the United States has declared it to be unconstitutional, and that it has never rescinded or modified that declaration. To attempt by an act of Congress to do a thing which the Supreme Court, in rendering its decision in an appropriate case upon the direct question involved, has declared to be in violation of the Constitution is a vain thing. The Congress has no power by a mere vote of the majority of its Members to change a provision of the Constitution. Only the people can do that through the orderly and prescribed process of a constitutional amendment. [Applause.]

Mr. HINSHAW. Mr. Chairman, I am not a constitutional lawyer, I am not a lawyer at all, and all of these large words and figures and references, and so forth, that are put forth by the legal profession are for the purpose of adding "color and verisimilitude to an otherwise bald and uninteresting narrative," so far as I am concerned. The thing I am concerned with, however, is the following of orderly processes by this body.

The people of the district I come from are not opposed to reciprocal taxation of employees of municipalities and the Federal Government. As a matter of fact, they favor such reciprocal taxation; but they demand of this Congress that it be carried out in accordance with the orderly processes of law.

I would like to address myself for a brief moment to the leadership on the majority side of the House. The leadership on the majority side has arrived there by virtue of long service, and that leadership of the majority may become again the leadership of the minority. The leadership of the majority as at present composed is largely from the South, and from the expressions I have heard on the floor, many of them are from the Tennessee Valley Authority districts. I ask you in all sincerity whether or not title I of this act does not lead directly toward the opening wedge for the taxation of the income, if you please, by the State of, perhaps, the well-known Tennessee Valley Authority and a number of other projects of like character?

It seems to me now is the time to consider, and consider carefully, what we are doing here. I am a political descendant, if you like, of that great man, Abraham Lincoln, the founder of the Republican Party, of which I have the honor to be a member, a Jeffersonian Republican, if you please, and he was and so am I a Jeffersonian Republican.

For that reason I demand that this Congress turn over to the people of the United States the final decision as respects title I of this act.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. McCORMACK. Mr. Chairman, I call to the attention of the membership of the House the inconsistent position that the gentleman from Ohio [Mr. JENKINS] and others on his side of the aisle find themselves in. The gentleman from Ohio [Mr. JENKINS] talks about the Constitution in its application to this law and then he says, what about the practical political side of it? They talk about taxing the person who works in the welfare department and other State or city departments and the political effect. I call the attention of the gentleman to the fact that there are a lot of merchants in their districts and States who are subject to the payment of an income tax; yes, and there are a lot of professional men in their States and other income-tax payers, and they are paying a State income tax, and they are paying a Federal income tax. What about them? How important are they in the game of politics? I think they are worthy of consideration, if one views this from purely a political angle.

Coming to the question of the gentleman from North Carolina [Mr. COOLEY], his question was entirely different. The gentleman refers to the case of Collector against Day, which was a decision rendered in connection with the Civil War income-tax law, it arose out of that, and also the case of McCulloch against Maryland, which he mentioned arose long before the sixteenth amendment.

Mr. COOLEY. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. Yes.

Mr. COOLEY. Are those decisions now the law of the land?

Mr. McCORMACK. As modified. We have never had a direct case under the sixteenth amendment, as to whether or not the Federal Government can subject to income tax employees of a State or political division of a State, who were engaged in an essentially governmental function. In a recent decision of the Supreme Court, the decision on a West Virginia law, where that State imposed a sales tax or similar tax on the contractors engaged in business in that State, one concern with a Federal contract raised the constitutionality of the power of the legislature to impose such a tax and to have it apply to a contractor doing Federal work. The Supreme Court, in substance, said the Legislature of the State of West Virginia had the power to enact such a law and to impose such a tax.

Mr. MOTT. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I cannot yield; and, by the way, the gentleman refused to yield to me.

Mr. MOTT. Oh, I beg the gentleman's pardon; I did not.

Mr. McCORMACK. Then I withdraw it if I am mistaken.

Mr. MOTT. The gentleman is mistaken.

Mr. McCORMACK. They talk about an amendment to the Constitution. That means years and years. If the Supreme Court says that this is constitutional, we do not need an amendment to the Constitution; and the only way that that question can be thrashed out is by the passage of this law and letting a test case be raised, and then if the Supreme Court says that we have not the power, we can and will have to amend the Constitution. If the Supreme Court says that we have the power, that will not be necessary.

Gentlemen talk about the Constitution, but the real reason is that they are opposed to the bill. On the other hand, when they go back home they will have to meet the argument from the merchants and from the small businessmen and from every other income-tax payer who is paying his income tax to the State and to the Federal Government,

and they will ask why they voted to allow the public employees to be exempt from the payment of an income tax, and that they have to pay one.

Mr. COOPER. The gentleman will agree that if the pending amendment is struck out, it strikes at the very heart of the bill.

Mr. McCORMACK. Exactly. As my time is about up, I urge the defeat of the pending amendment. If you believe in the objective the bill seeks, I submit you should vote against this amendment. Vote for the bill, thereby enabling the Supreme Court to pass upon any legal questions involved.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired. All time has expired. The question is on the amendment offered by the gentleman from New York [Mr. REED].

The question was taken; and on a division (demanded by Mr. REED of New York) there were—ayes 136, noes 141.

So the amendment was rejected.

The Clerk read as follows:

SEC. 2. Section 116 (b) of the Revenue Act of 1938 (exempting compensation of teachers in Alaska and Hawaii from income tax) shall not apply to any taxable year beginning after December 31, 1938.

SEC. 3. The United States hereby consents to the taxation of compensation, received after December 31, 1938, for personal service as an officer or employee of the United States, any Territory or possession or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, by any duly constituted taxing authority having jurisdiction to tax such compensation, if such taxation does not discriminate against such officer or employee because of the source of such compensation.

Mr. LUCE. Mr. Chairman, I move to strike out the section.

The Clerk read as follows:

Amendment offered by Mr. LUCE: On page 2, beginning in line 9, strike out all of section 3, down to and including line 18.

Mr. LUCE. Mr. Chairman, it has been my fortune to serve for many years in lawmaking bodies. In all that period I never saw the presentation of so futile a proposal as is contained in this section. [Applause.]

I have no wish nor the time to discuss the constitutional questions involved. I ask the Committee only to consider a perfectly simple proposition. The State now may or may not tax the officers and instrumentalities of the Federal Government, and the Federal Government may or may not tax those of the States. Here is a proposal for us to consent that the salaries of Federal Government officers may be taxed by the States. It is now constitutional or it is not constitutional for the State of Massachusetts to tax the salary of the postmaster of Boston. I want that to sink in. It is constitutional or it is not constitutional. If it is constitutional, the thing can be done now and our consent is not only futile but also ridiculous.

I want to repeat that. If it is constitutional, it can be done now and our consent is not only futile but it is ridiculous. I will add an adjective or two. It is absurd. Another one: It is silly; if the thing can be done now. If it cannot be done now, then the same adjectives may be applied to any attempt on our part to change the Constitution by law. Such a proposal as that is novel, is exciting, is preposterous and absurd, and it is no credit to the man who wrote it. [Laughter and applause.] It is an expression of good will; it is a voicing of amity; it is a gesture, absolutely vain. If it is unconstitutional no statute can make it constitutional, and to save the fair name of the House from the laughter this section will arouse in the coming years, from having the finger of ridicule pointed to us by doing such a preposterous thing. I trust we will refrain. [Applause and laughter.]

Mr. COOPER. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment and all amendments thereto close in 5 minutes.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. COOPER. Mr. Chairman, I ask recognition in opposition to the amendment offered by the gentleman from Massachusetts [Mr. LUCE].

Mr. Chairman, I am somewhat surprised by the position taken by the very able, learned, and distinguished gentleman from Massachusetts [Mr. LUCE], who has had such long and distinguished service on the Banking and Currency Committee. I am sure he only momentarily overlooked the fact that in the case of *McCulloch* against Maryland it was held that the State could not tax a national bank. Following that decision, recognizing that decision, and under the force and strength of that decision, section 5219 of the Revised Statutes was enacted by the Congress, which permits States to tax national banks the same as State banks.

Had it not been for that statute passed by the Congress, and had the decision in the case of *McCulloch* against Maryland continued to operate, we would probably not today have the States taxing national banks. So certainly, since the Congress has granted consent in the provision of the Revised Statutes to which attention has been invited, it is only proper that we should likewise have section 3 of title I contained in this bill.

In addition to that, certainly it could not be contended that the fair and equitable thing to do would be for us, under the provisions of sections 1 and 2 of title I, to impose a Federal income tax upon employees of States, counties, and municipalities without also including section 3 of the same title, which grants to the States and political subdivisions the consent of Congress to tax Federal employees. This certainly is based upon equality and fairness, and no just criticism could be offered against this provision.

I ask for a vote on the amendment offered by the gentleman from Massachusetts.

Mr. WOLCOTT. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. WOLCOTT moves that the Committee do now rise and report the bill forthwith to the House with the recommendation that the enacting clause be stricken out.

Mr. WOLCOTT. Mr. Chairman, I take this time to answer the gentleman from Tennessee [Mr. COOPER], and call attention to the fact that when the *McCulloch* against Maryland case was decided the national banks were fiscal agents of the Federal Government. At the present time national banks are merely chartered by the Federal Government, the same as other private agencies might be, such as the American Legion, Veterans of Foreign Wars, Disabled American Veterans. There is no connection, no connection whatsoever, between the fiscal policies of the Federal Government and the national banks at the present time, but when the *McCulloch* case was handed down the national banks were the fiscal agents of the Federal Government and, therefore, were an integral and inseparable part of the Federal Government.

Mr. COOPER. Mr. Chairman, will the gentleman yield?

Mr. WOLCOTT. If the gentleman will permit, I want to get to another point.

It is conceded, I think, by every intelligent lawyer who is a Member of this House—and I say this advisedly—that the Congress of the United States has no authority to add to, to subtract from, to modify, or to amend any of the provisions of the Constitution. Where an obligation is provided by the Constitution the Congress of the United States cannot make certain of our citizens immune from the obligation. Where the Constitution says that we must or must not do certain things, who are we, the Members of Congress, who are we as individual citizens of the United States—because we have just as much authority as individual citizens as we do collectively as the Congress of the United States—to amend the Constitution? The Constitution of the United States is inviolate. It may be amended only in the manner provided for amendment. The Congress of the United States cannot amend, or modify, or interpret that Constitution.

The question of interpretation is left to the judiciary. The judicial branch of this Government has held that it is uncon-

stitutional, it is not in conformity with the Constitution, for a State to tax the Federal Government, any of its agencies, or any officer or employee of the Federal Government. Now, who are we in our egotism, that we sit around here and tell the States that they may come in and do something which the Supreme Court says is prohibited to them under the Constitution? Think of that, Mr. Chairman; think how ridiculous, in the words of my esteemed friend from Massachusetts [Mr. LUCE], how silly it is that we are presuming to do something which the Constitution says cannot be done. Who are you, who am I, that we overrule the established law of this land, the fundamental law of this land as interpreted by the Supreme Court? Big I; the States—little you.

Do not forget that the Congress is a creature of the Constitution. The States are creatures of the Constitution. The Supreme Court is a creature of the Constitution. To the Supreme Court is delegated a definite duty—the interpretation of the Constitution. That is why we have courts. It is our duty to make the laws; it is the duty of the courts to interpret the laws and the Constitution, and they have most decidedly interpreted the Constitution in this respect. We should not, if we are to preserve our constitutional form of government, overrule their decisions. It is not granted to us to do so under the Constitution.

[Here the gavel fell.]

Mr. McCORMACK. Mr. Chairman, I assume that the gentleman from Michigan offered his preferential motion merely as a pro forma amendment in order to obtain the floor. Does not the gentleman wish to ask unanimous consent to withdraw the motion?

Mr. WOLCOTT. I am afraid were I to do so somebody might embarrass me by objecting. If the gentleman himself wants to submit such a request, I shall not object.

Mr. McCORMACK. The gentleman moved it himself. The gentleman states that he offered his motion merely for the purpose of obtaining the floor.

On the pending amendment I think the argument of the gentleman from Tennessee [Mr. COOPER] is convincing.

I have great respect for my distinguished friend from Massachusetts [Mr. LUCE]. I remember the first public office that I held was as a delegate to the constitutional convention in Massachusetts; and I sat at the knees of my distinguished friend from Massachusetts [Mr. LUCE] and gained knowledge and wisdom from him. I have always had the most profound respect for him, for his ability, for his sincerity. It is with great hesitancy that I take issue with him.

I think we have the power to do this thing. Certainly if we have the power, we should not subject the State and city employees to a Federal income tax without subjecting the Federal employees to a State income tax.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield.

Mr. CELLER. The holding in the *McCulloch* case was that a State could not tax the salaries of Federal officials or the instrumentalities of the Federal Government without its consent. All we are doing by this section is giving the consent of the Federal Government that its employees may be taxed.

Mr. McCORMACK. The gentleman is quite correct. You see, when great constitutional lawyers like my friend the gentleman from New York [Mr. CELLER], and my friend the gentleman from Michigan [Mr. WOLCOTT], put their minds to a subject it makes a poor little lawyer like myself hesitate to express an opinion.

[Here the gavel fell.]

The CHAIRMAN. The question is on the motion offered by the gentleman from Michigan.

The motion was rejected.

The CHAIRMAN. The question recurs on the amendment offered by the gentleman from Massachusetts.

The question was taken; and on a division (demanded by Mr. LUCE) there were—ayes 80, noes 136.

So the amendment was rejected.

Mr. McCORMACK. Mr. Chairman, inasmuch as we are now past the controversial part of the bill, I ask unanimous

consent that title II be read in its entirety, then to be open for amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read as follows:

TITLE II

SEC. 201. Any amount of income tax (including interest, additions to tax, and additional amounts) for any taxable year beginning prior to January 1, 1938, to the extent attributable to compensation for personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing—

(a) shall not be assessed, and no proceeding in court for the collection thereof shall be begun or prosecuted (unless pursuant to an assessment made prior to January 1, 1939);

(b) if assessed after December 31, 1938, the assessment shall be abated, and any amount collected in pursuance of such assessment shall be credited or refunded in the same manner as in the case of an income tax erroneously collected; and

(c) shall, if collected on or before the date of the enactment of this act, be credited or refunded in the same manner as in the case of an income tax erroneously collected, in the following cases—

(1) Where a claim for refund of such amount was filed before January 19, 1939, and was not disallowed on or before the date of the enactment of this act;

(2) Where such claim was so filed but has been disallowed and the time for beginning suit with respect thereto has not expired on the date of the enactment of this act;

(3) Where a suit for the recovery of such amount is pending on the date of the enactment of this act; and

(4) Where a petition to the Board of Tax Appeals has been filed with respect to such amount and the Board's decision has not become final before the date of the enactment of this act.

SEC. 202. In the case of any taxable year beginning after December 31, 1937, and before January 1, 1939, compensation for personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing, shall not be included in the gross income of any individual under title I of the Revenue Act of 1938 and shall be exempt from taxation under such title, if such individual either—

(a) did not include in his return for a taxable year beginning after December 31, 1936, and before January 1, 1938, any amount as compensation for personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing; or

(b) did include any such amount in such return, but is entitled under section 201 of this act to have the tax attributable thereto credited or refunded.

SEC. 203. Any amount of income tax (including interest, additions to tax, and additional amounts) collected on, before or after the date of the enactment of this act for any taxable year beginning prior to January 1, 1939, to the extent attributable to compensation for personal service as an officer or employee of a State, or any political subdivision thereof, or any agency or instrumentality of any one or more of the foregoing, shall be credited or refunded in the same manner as in the case of an income tax erroneously collected, if claim for refund with respect thereto is filed after January 18, 1939, and the Commissioner of Internal Revenue, under regulations prescribed by him with the approval of the Secretary of the Treasury, finds that disallowance of such claim would result in the application of the doctrines in the case of *Helvering v. Gerhardt* (304 U. S. 405) extending the classes of officers and employees subject to Federal taxation.

SEC. 204. Neither section 201 nor section 203 shall apply in any case where the claim for refund, or the institution of the suit, or the filing of the petition with the Board, was, at the time filed or begun, barred by the statute of limitations properly applicable thereto.

SEC. 205. Compensation shall not be considered as compensation within the meaning of sections 201, 202, and 203 to the extent that it is paid directly or indirectly by the United States or any agency or instrumentality thereof.

SEC. 206. The terms used in this act shall have the same meaning as when used in title I of the Revenue Act of 1938.

SEC. 207. If either title of this act, or the application thereof to any person or circumstances, is held invalid, the other title of the act shall not be affected thereby.

Mr. CELLER. Mr. Chairman, I offer an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. CELLER: On page 5, strike out, beginning in line 18 and ending in line 21, all of section 205.

Mr. CELLER. Mr. Chairman, I offer my amendment by striking out section 205 because, under the present wording, the exemptions of incomes in regard to retroactive taxes might be made inapplicable to many innocent persons. For example, section 205 states that compensation shall not be

considered as such within the meaning of sections 201, 202, and 203, if the compensation is traced directly or indirectly to moneys paid out by the United States Government or any agency or subdivision thereof. Take Cornell University in my State—New York. This university has a State agricultural college which is supported by the Federal Government. It is a land-grant college. Practically every State university has such a land-grant college. The attendants, teachers, and aides of such college receive their salaries and emoluments indirectly out of the land-grant fund, which, in turn, is an indirect payment of the Federal Government. Remember, such professors, teachers, or employees of such land-grant colleges might have their salaries attached retroactively for a period of as much as 12 years, because the immunities granted to the other type of employees in sections 201, 202, and 203 are not effective as to them by section 205. In other words, where city or State employees are paid directly or indirectly out of Federal funds there are no immunities whether such employees knew that was or was not the case. Take the Tri-Borough Bridge in my city. It was built in part through P. W. A. funds. Some of the draftsmen, engineers, and architects employed in the planning and building of the bridge, although regularly employed by an agency of the State, nevertheless received their compensation in part from funds allotted to the Tri-Borough Bridge Authority through P. W. A. funds. In other words, these men mentioned might have their salaries attached retroactively for 3 or 4 years. Take the West Side Highway of New York City. The city employees on this project are paid indirectly from P. W. A. funds allotted to the city of New York. In other words, their salaries are paid by the Federal Government, because some of the expenses for the building of this highway comes out of P. W. A. funds, and the salaries of those paid are charged to construction costs, which are paid out of P. W. A. funds. In other words, the salaries received by these men are chargeable against Federal funds.

Ordinarily these persons are city and State employees and as such were not taxable. Just because they were loaned to these agencies they are being made taxable. No tax was asked of them for several years back. Now they are asked to pay or will be asked to pay retroactively. That is unjust.

On this matter I direct your attention to the case of *Hanson against Landy*, decided by the United States District Court for the Third Division of Minnesota, August 3, 1938. The plaintiff in that case was employed and his compensation was fixed by the board of regents of the University of Minnesota and not by any office of the Government of the United States. His salary was \$3,100 per annum, of which \$2,100 was paid from a grant by the United States Government to the university under the Smith-Lever Act. The court said that that portion of the plaintiff's salary paid from Federal funds was subject to income taxation by the United States Government. In this connection the court said:

The question is whether the portion of the plaintiff's salary paid from Federal funds is subject to income taxation by the United States. The answer depends on whether the appropriation under the Smith-Lever Act became the absolute property of the State or remained Federal funds until used for the purpose designated by the act, whether the tax imposed a burden on the State government, and whether the activities provided for in the act are essential governmental functions of the State of Minnesota.

According to the more recent decisions, immunity may be claimed from taxes laid on private persons employed by the State or an instrumentality of the State and engaged in the performance of an essential governmental function when it clearly appears that the burden on the State would be actual and substantial and not merely conjectural.

Furthermore, it may be assumed, without deciding, that the University of Minnesota is an instrumentality of the State, that it is engaged in the performance of an essential governmental function, and that the plaintiff, in the performance of his duties as assistant professor of agriculture and in meeting the requirements of the Smith-Lever Act, was performing an essential governmental function of the State; and yet, under principles above stated, the tax on the plaintiff's salary was valid because it did not impose an actual, substantial burden on the government of the State of Minnesota.

This professor now will be called on to pay such back taxes for 12 years. This is horrible. I presume there must be hundreds of similar cases where you have land-grant colleges. These professors, agents, and clerks of the said col-

leges who thought themselves immune, will now be called on to pay not only the current taxes, but also taxes for 12 years back. I believe a similar situation might arise in the case of employees of drainage commissions, highway departments, and irrigation entities, where city or State employees of such are either in part or in whole, directly or indirectly, paid from Federal funds.

I do not wish to press my motion, as I have high respect for the members of the Ways and Means Committee. I do not wish to embarrass them. I offer it in the hope that the matter might be considered in the other chamber and there be remedied.

Mr. COOPER. Will the gentleman yield?

Mr. CELLER. I yield to the gentleman from Tennessee.

Mr. COOPER. There is no oversight. We just do not feel that these employees, who receive money from the Federal Government, ought to be exempted or excused from the payment of these taxes.

Mr. CELLER. Then I ask for a vote on my amendment.

[Here the gavel fell.]

Mr. McCORMACK. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York [Mr. CELLER].

Mr. Chairman, the amendment just offered by the gentleman from New York [Mr. CELLER] was considered by the Committee on Ways and Means. The section he undertakes to strike out includes certain employees who have always been subject to a Federal income tax in the main. It is a case where an employee of the State is being paid out of the funds of the Federal Government. They have always been subject to the Federal income-tax law and we simply provide that the retroactive features of this title shall not apply to them.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. CELLER].

The amendment was rejected.

Mr. McCORMACK. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. COFFEE of Nebraska, Chairman of the Committee of the Whole House on the state of the Union, reported that that Committee, having had under consideration the bill (H. R. 3790) relating to the taxation of the compensation of public officers and employees, had directed him to report the same back to the House without amendment, with the recommendation that the bill do pass.

Mr. McCORMACK. Mr. Speaker, I move the previous question on the bill to final passage.

The previous question was ordered.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. REED of New York. Mr. Speaker, I move to recommit the bill H. R. 3790 to the Committee on Ways and Means with instructions to report the same back to the House forthwith with an amendment striking out all of title I.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. REED of New York. I am.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. REED of New York moves to recommit the bill to the Committee on Ways and Means with instructions to report the same back to the House forthwith with an amendment striking out all of title I.

Mr. McCORMACK. Mr. Speaker, I move the previous question on the motion to recommit.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from New York [Mr. REED] to recommit the bill.

The question was taken; and on a division (demanded by Mr. REED of New York) there were—ayes 105, noes 221.

Mr. REED of New York. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 117, nays 264, answered "present" 1, not voting 50, as follows:

[Roll No. 11]

YEAS—117

Allen, Ill.	Gartner	Lewis, Ohio	Shanley
Arends	Gathings	Lord	Shannon
Austin	Gearhart	Luce	Short
Ball	Gerlach	McDowell	Simpson
Blackney	Gibbs	McLean	Smith, Maine
Bolles	Gifford	McLeod	Smith, Ohio
Bradley, Mich.	Graham	Marshall	Sparkman
Brewster	Grant, Ala.	Martin, Iowa	Steagall
Brown, Ohio	Gross	Mason	Stearns, N. H.
Bulwinkle	Hare	Miller	Sumner, Ill.
Chapman	Harness	Monkiewicz	Sweeney
Chipherfield	Hartley	Moser	Taber
Church	Hawks	Mott	Thomas, N. J.
Clevenger	Heinke	Osmer	Thorkelson
Cluett	Hess	Pace	Tibbott
Cole, N. Y.	Hinshaw	Patrick	Van Zandt
Cooley	Hobbs	Peterson, Fla.	Vinson, Ga.
Corbett	Holmes	Plumley	Vorys, Ohio
Crowther	Horton	Powers	Vreeland
Darrow	Jarman	Reece, Tenn.	Wadsworth
Dirksen	Jarrett	Reed, Ill.	Wheat
Ditter	Jeffries	Risk	White, Ohio
Dondero	Jenkins, Ohio	Robison, Ky.	Williams, Del.
Durham	Jensen	Rodgers, Pa.	Wolcott
Eaton, Calif.	Johnson, Ill.	Routzohn	Wolfenden, Pa.
Eaton, N. J.	Jones, Ohio	Rutherford	Wolverton, N. J.
Elston	Kean	Sandager	Woodruff, Mich.
Fenton	Kinzer	Schiffler	
Fernandez	Kleberg	Schulte	
Ford, Leland M.	Kunkel	Secrest	

NAYS—264

Alexander	Culkin	Hook	Mills, Ark.
Allen, La.	Cullen	Hope	Mills, La.
Allen, Pa.	Curtis	Houston	Monroney
Andersen, H. Carl	D'Alesandro	Hull	Mouton
Anderson, Calif.	Darden	Hunter	Mundt
Anderson, Mo.	Delaney	Jacobsen	Murdock, Utah
Andresen, A. H.	Dempsey	Jenks, N. H.	Murray
Andrews	DeRouen	Johns	Myers
Angell	Dickstein	Johnson, Ind.	Nelson
Ashbrook	Dies	Johnson, Luther A.	Nichols
Barden	Dingell	Johnson, Lyndon	Norrell
Barnes	Disney	Johnson, W. Va.	Norton
Barry	Dowell	Jones, Tex.	O'Connor
Barton	Doxey	Kee	O'Day
Bates, Ky.	Drewry	Keller	O'Leary
Bates, Mass.	Duncan	Kennedy, Martin	Oliver
Beckworth	Dunn	Kennedy, Michael	O'Neal
Bell	Dworshak	Kennedy, Md.	O'Toole
Bender	Eberharter	Keogh	Owen
Bland	Edmiston	Kerr	Patton
Bloom	Elliot	Kilday	Pearson
Boehne	Ellis	Kirwan	Peterson, Ga.
Boland	Engel	Kitchens	Pfelfer
Boren	Englebright	Knutson	Pierce, N. Y.
Bradley, Pa.	Faddis	Kociaowski	Pierce, Oreg.
Brooks	Ferguson	Kramer	Pittenger
Brown, Ga.	Fitzpatrick	Lambertson	Poage
Bryson	Flaherty	Landis	Rabaut
Buck	Flannagan	Lanham	Ramspeck
Buckler, Minn.	Folger	Larabee	Randolph
Burch	Ford, Miss.	Lea	Rankin
Burdick	Ford, Thomas F.	Leavy	Rayburn
Burgin	Fries	LeCompte	Rees, Kans.
Byrns, Tenn.	Fulmer	Lemke	Robertson
Byron	Gamble	Lesinski	Robinson, Utah
Cannon, Fla.	Garrett	Lewis, Colo.	Rogers, Mass.
Cannon, Mo.	Gavagan	Ludlow	Rogers, Okla.
Carlson	Gehrmann	McAndrews	Romjue
Carter	Geyer, Calif.	McArdle	Ryan
Cartwright	Gilchrist	McCormack	Sabath
Case, S. Dak.	Gillie	McGehee	Sacks
Casey, Mass.	Goldsborough	McGranery	Satterfield
Celler	Gore	McKeough	Schaefer, Ill.
Chandler	Gossett	McLaughlin	Schaefer, Wis.
Clark	Grant, Ind.	McMillan, John L.	Schuetz
Clason	Green	Maas	Schwert
Claypool	Gregory	Maclejewski	Scrugham
Cochran	Griffith	Magnuson	Secombe
Coffee, Nebr.	Griswold	Mahon	Shafer, Mich.
Coffee, Wash.	Guyre, Kans.	Maloney	Sirovich
Cole, Md.	Gwynne	Mapes	Smith, Conn.
Collins	Hall	Marcantonio	Smith, Ill.
Connery	Halleck	Martin, Colo.	Smith, Va.
Cooper	Hancock	Martin, Ill.	Smith, Wash.
Costello	Hart	Martin, Mass.	Smith, W. Va.
Cox	Harter, N. Y.	Massingale	Snyder
Crawford	Harter, Ohio	May	South
Crosser	Havener	Merritt	Spence
Crowe	Hill	Michener	Springer

Stefan
Talle
Tarver
Taylor, Tenn.
Tenerowicz
Terry
Thill

Thomas, Tex.
Thomason
Tolan
Treadway
Turner
Vincent, Ky.
Voorhis, Calif.

Wallgren
Walter
Warren
Weaver
Welch
West
Whelchel

White, Idaho
Whittington
Wigglesworth
Williams, Mo.
Wood
Youngdahl
Zimmerman

Doxey
Drewry
Duncan
Dunn
Dworshak
Eaton, Calif.
Eberhart
Edmiston
Elliott
Ellis
Engel
Englebright
Faddis
Ferguson
Fitzpatrick
Flaherty
Flannagan
Folger
Ford, Miss.
Ford, Thomas F.
Fries
Fulmer
Gamble
Garrett
Gavagan
Gearhart
Gehrmann
Geyer, Calif.
Gibbs
Gichrist
Gillie
Goldsborough
Gore
Gossett
Grant, Ind.
Green
Gregory
Griffith
Griswold
Guyer, Kans.
Gwynne
Hall
Halleck
Hancock
Hare
Hart
Harter, N. Y.
Harter, Ohio
Havener
Hook
Hope

Houston
Hull
Hunter
Jacobsen
Jenks, N. H.
Johns
Johnson, Ind.
Johnson, Luther A.
Johnson, Lyndon
Johnson, Okla.
Johnson, W. Va.
Jones, Tex.
Kee
Keller
Kennedy, Martin
Kennedy, Michael
Keogh
Kerr
Kilday
Kirwan
Kitchens
Knutson
Kocialkowski
Kramer
Lambertson
Landis
Lanham
Larrabee
Lea
Leavy
LeCompte
Lemke
Lesinski
Lewis, Colo.
Lord
Ludlow
McAndrews
McArdle
McCormack
McGehee
McGranery
McKeough
McLaughlin
McMillan, John L.
Maas
Maciejewski
Magnuson
Mahon
Maloney
Mapes

Marcantonio
Martin, Colo.
Martin, Ill.
Martin, Mass.
Massingale
May
Merritt
Michener
Mills, Ark.
Mills, La.
Monroney
Mouton
Mundt
Murdock, Utah
Murray
Myers
Nelson
Nichols
Norrell
Norton
O'Connor
O'Day
O'Leary
Oliver
O'Neal
O'Toole
Owen
Pace
Patton
Pearson
Peterson, Fla.
Peterson, Ga.
Pierce, N. Y.
Pierce, Oreg.
Pittenger
Poage
Rabaut
Ramspeck
Randolph
Rankin
Rayburn
Rees, Kans.
Robertson
Robinson, Utah
Rogers, Mass.
Rogers, Okla.
Romjue
Ryan
Sabath
Sacks
Satterfield

Schaefer, Ill.
Schaefer, Wis.
Schuetz
Schulte
Schwert
Scrugham
Secombe
Shafer, Mich.
Sirovich
Smith, Conn.
Smith, Ill.
Smith, Va.
Smith, Wash.
Smith, W. Va.
Snyder
South
Spence
Springer
Steagall
Stefan
Sweeney
Talle
Tarver
Taylor, Tenn.
Tenerowicz
Terry
Thill
Thomas, Tex.
Thomason
Tolan
Treadway
Turner
Voorhis, Calif.
Wallgren
Walter
Warren
Weaver
Welch
West
Whelchel
White, Idaho
White, Ohio
Whittington
Wigglesworth
Williams, Mo.
Wolverton, N. J.
Wood
Youngdahl
Zimmerman

ANSWERED "PRESENT"—1

Reed, N. Y.

NOT VOTING—50

Arnold
Beam
Bolton
Boykin
Buckley, N. Y.
Byrne, N. Y.
Caldwell
Colmer
Creal
Cummings
Curley
Daly
Doughton

Douglas
Evans
Fay
Fish
Flannery
Harrington
Healey
Hendricks
Hennings
Hoffman
Izac
Johnson, Okla.
Keefe

Kelly
McMillan, Thos. S.
McReynolds
Mansfield
Mitchell
Murdock, Ariz.
O'Brien
Parsons
Patman
Polk
Rich
Richards
Rockefeller

Seeger
Sommers, N. Y.
Starnes, Ala.
Sullivan
Summers, Tex.
Sutphin
Taylor, Colo.
Tinkham
Winter
Woodrum, Va.

So the motion to recommit was rejected.
The Clerk announced the following pairs:
On this vote:

Mr. Reed of New York (for) with Mr. Doughton (against).
Mr. Rich (for) with Mr. Woodrum of Virginia (against).
Mr. Douglas (for) with Mr. Winter (against).
Mr. O'Brien (for) with Mr. Murdock of Arizona (against).

Until further notice:

Mr. McReynolds with Mr. Hoffman.
Mr. Hennings with Mr. Fish.
Mr. Starnes of Alabama with Mr. Seeger.
Mr. Colmer with Mr. Bolton.
Mr. Caldwell with Mr. Rockefeller.
Mr. Mansfield with Mr. Keefe.
Mr. Summers of Texas with Mr. Tinkham.
Mr. Flannery with Mr. Patman.
Mr. Sullivan with Mr. Hendricks.
Mr. Beam with Mr. Daly.
Mr. Sutphin with Mr. Arnold.
Mr. Thomas S. McMillan with Mr. Byrne of New York.
Mr. Curley with Mr. Boykin.
Mr. Somers of New York with Mr. Parsons.
Mr. Johnson of Oklahoma with Mr. Polk.
Mr. Richards with Mr. Evans.
Mr. Cummings with Mr. Healey.
Mr. Buckley of New York with Mr. Taylor of Colorado.
Mr. Sheppard with Mr. Harrington.
Mr. Creal with Mr. Fay.
Mr. Kelly with Mr. Izac.

Mr. REED of New York. Mr. Speaker, I have a pair with the gentleman from North Carolina, Mr. DOUGHTON, who is ill. If the gentleman from North Carolina were here, he would, of course, have voted against the motion to recommit. I voted "yea." I would like to withdraw my vote and vote "present."

The SPEAKER. Without objection, the request will be granted.

There was no objection.

Mr. BATES of Massachusetts changed his vote from "yea" to "nay."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. McCORMACK. Mr. Speaker, I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and there were—yeas 270, nays 104, answered "present" 1, not voting 57, as follows:

[Roll No. 12]

YEAS—270

Allen, La.
Allen, Pa.
Andersen, H. Carl
Anderson, Calif.
Anderson, Mo.
Andersen, A. H.
Andrews
Angell
Ashbrook
Barden
Barnes
Barry
Barton
Bates, Ky.
Bates, Mass.
Beckworth
Bender

Bland
Bloom
Boehne
Boland
Boren
Bradley, Pa.
Brooks
Brown, Ga.
Bryson
Buck
Buckler, Minn.
Burch
Burdick
Burgin
Byrns, Tenn.
Byron
Cannon, Fla.

Cannon, Mo.
Carlson
Carter
Cartwright
Case, S. Dak.
Casey, Mass.
Celler
Chandler
Clark
Clason
Claypool
Cochran
Coffee, Nebr.
Coffee, Wash.
Collins
Connery
Cooper

Costello
Cox
Crawford
Crosier
Crowe
Culkin
Cullen
Curtis
D'Alessandro
Darden
Delaney
Dempsey
DeRouen
Dickstein
Dingell
Disney
Dowell

Allen, Ill.
Arends
Austin
Ball
Blackney
Bolles
Bradley, Mich.
Brewster
Brown, Ohio
Bulwinkle
Chapman
Chipperfield
Church
Clevenger
Cluett
Cole, Md.
Cole, N. Y.
Cooley
Corbett
Crowther
Darrow
Dirksen
Ditter
Dondero
Durham
Eaton, N. J.

Elston
Fenton
Ford, Leland M.
Gartner
Gathings
Gerlach
Graham
Grant, Ala.
Gross
Harness
Hartley
Hawks
Heinke
Hess
Hinshaw
Hobbs
Holmes
Horton
Jarman
Jarrett
Jeffries
Jenkins, Ohio
Jensen
Johnson, Ill.
Jones, Ohio
Kean

Kinzer
Kleberg
Kunkel
Lewis, Ohio
Luce
McDowell
McLean
McLeod
Marshall
Martin, Iowa
Mason
Miller
Monkiewicz
Moser
Mott
Patrick
Plumley
Powers
Reece, Tenn.
Reed, Ill.
Risk
Robison, Ky.
Rodgers, Pa.
Routzohn
Rutherford
Sandager

Schiffler
Secrest
Shanley
Shannon
Short
Simpson
Smith, Maine
Smith, Ohio
Sparkman
Stearns, N. H.
Sumner, Ill.
Taber
Thomas, N. J.
Thorkelson
Tibbott
Van Zandt
Vincent, Ky.
Vinson, Ga.
Vorys, Ohio
Vreeland
Wadsworth
Wheat
Williams, Del.
Wolcott
Wolfenden, Pa.
Woodruff, Mich.

NAYS—104

ANSWERED "PRESENT"—1

Reed, N. Y.

NOT VOTING—57

Alexander
Arnold
Beam
Bell
Bolton
Boykin
Buckley, N. Y.
Byrne, N. Y.
Caldwell
Colmer
Creal
Cummings
Curley
Daly
Dies

Doughton
Douglas
Evans
Fay
Fernandez
Fish
Flannery
Gifford
Harrington
Healey
Hendricks
Hennings
Hill
Hoffman
Izac

Keefe
Kelly
McMillan, Thos. S.
McReynolds
Mansfield
Mitchell
Murdock, Ariz.
O'Brien
Osmer
Parsons
Patman
Pfeifer
Polk
Rich
Richards

Rockefeller
Seeger
Sheppard
Sommers, N. Y.
Starnes, Ala.
Sullivan
Summers, Tex.
Sutphin
Taylor, Colo.
Tinkham
Winter
Woodrum, Va.

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Doughton (for) with Mr. Reed of New York (against).
Mr. Woodrum of Virginia (for) with Mr. Rich (against).

Mr. Winter (for) with Mr. Douglas (against).
 Mr. Murdock of Arizona (for) with Mr. O'Brien (against).
 Mr. Kelly (for) with Mr. Osmer (against).

Until further notice:

Mr. McReynolds with Mr. Hoffman.
 Mr. Hennings with Mr. Fish.
 Mr. Starnes of Alabama with Mr. Seger.
 Mr. Colmer with Mr. Bolton.
 Mr. Caldwell with Mr. Rockefeller.
 Mr. Mansfield with Mr. Keefe.
 Mr. Summers of Texas with Mr. Tinkham.
 Mr. Dies with Mr. Alexander.
 Mr. Hill with Mr. Gifford.
 Mr. Pfeifer with Mr. Bell.
 Mr. Flannery with Mr. Patman.
 Mr. Sullivan with Mr. Hendricks.
 Mr. Beam with Mr. Daly.
 Mr. Sutphin with Mr. Arnold.
 Mr. McMillan, Thomas S., with Mr. Byrne of New York.
 Mr. Curley with Mr. Boykin.
 Mr. Somers of New York with Mr. Parsons.
 Mr. Richards with Mr. Evans.
 Mr. Cummings with Mr. Healey.
 Mr. Buckley of New York with Mr. Taylor of Colorado.
 Mr. Sheppard with Mr. Harrington.
 Mr. Creal with Mr. Pay.
 Mr. Izac with Mr. Polk.

Mr. REED of New York. Mr. Speaker, I voted against this bill. I am paired with the gentleman from North Carolina, Mr. DOUGHTON, who is ill. If the gentleman had been present, he would have voted "yea." I therefore withdraw my vote and answer "present."

The result of the vote was announced as above recorded.
 A motion to reconsider was laid on the table.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. HEALEY, for 3 days, on account of illness.
 To Mr. KEEFE (at the request of Mr. MARTIN of Massachusetts), for today, on account of official business.

EXTENSION OF REMARKS

Mr. MCCORMACK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks in the RECORD on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

COMMITTEE ON WILDLIFE CONSERVATION

Mr. ROBERTSON. Mr. Speaker, I offer a resolution and ask unanimous consent for its present consideration.

The Clerk read the resolution, as follows:

House Resolution 90

Resolved, That the number of Members of the House of Representatives from the minority political party to be appointed by the Speaker on the Special Committee on Wildlife Conservation created under House Resolution 237 of the Seventy-third Congress and continued under House Resolution 44 of the Seventy-fourth Congress, House Resolution 11 of the Seventy-fifth Congress, and House Resolution 65 of the Seventy-sixth Congress, is hereby increased to five Members of the House of Representatives from the minority political party.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION TO ADDRESS THE HOUSE

Mr. THORKELOSON. Mr. Speaker, I ask unanimous consent that on Monday next, after the disposition of the legislative program, I may be permitted to address the House for 30 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Montana?

There was no objection.

EXTENSION OF REMARKS

Mr. IGLESIAS. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD on labor in Puerto Rico.

The SPEAKER. Is there objection to the request of the Commissioner from Puerto Rico?

There was no objection.

Mr. McLEAN. Mr. Speaker, I ask unanimous consent that in the extension of my remarks in the RECORD I may include excerpts from observations made by Senator Root and Senator BORAH.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. KELLER. Mr. Speaker, I ask unanimous consent that I may be given 3 additional legislative days to complete my speech on the Dies resolution.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. VAN ZANDT, Mr. FENTON, and Mr. SPRINGER asked and were given permission to revise and extend their own remarks in the RECORD.

Mr. CARLSON. Mr. Speaker, I ask unanimous consent to include as an extension of my remarks a small table and statement by Roger Babson in the remarks I made this afternoon.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. FLAHERTY. Mr. Speaker, I ask unanimous consent to proceed for one-half minute.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FLAHERTY. Mr. Speaker, my colleague the gentleman from Massachusetts [Mr. HEALEY] is confined to his home on account of illness and has instructed me to say that if he had been present he would have voted against the motion to recommit and would have voted for the bill under consideration this afternoon.

EXTENSION OF REMARKS

Mr. RANDOLPH. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD and to include therein an address on the Civil Aeronautics Act of 1938 and Democratic Government by Col. Edgar S. Gorrell.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

Mr. ALEXANDER. Mr. Speaker, I was unavoidably detained and was unable to be present on the last roll-call vote. If I had been here, I would have voted "yea."

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S. J. Res. 38. Joint resolution providing additional funds for the expenses of the special joint congressional committee investigating the Tennessee Valley Authority, and for other purposes.

ADJOURNMENT

Mr. RAYBURN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 18 minutes p. m.) the House adjourned to meet, in accordance with its previous order, on Monday, February 13, 1939, at 12 o'clock noon.

COMMITTEE HEARINGS

COMMITTEE ON WAYS AND MEANS

Public hearings will continue Friday, February 10, 1939, at 10 a. m., on social-security legislation in the Ways and Means Committee room in the New House Office Building, Washington, D. C.

COMMITTEE ON WORLD WAR VETERANS' LEGISLATION

There will be a meeting of the Committee on World War Veterans' Legislation at 10:30 a. m. Friday, February 10, 1939.

COMMITTEE ON RIVERS AND HARBORS

The Committee on Rivers and Harbors will meet Friday, February 10, 1939, at 10:30 a. m., to hold hearings on the report on the New Jersey intracoastal waterway.

COMMITTEE ON FOREIGN AFFAIRS

There will be a meeting of the Committee on Foreign Affairs in the committee rooms in the Capitol, Tuesday, February 14, 1939, at 10 a. m., for the consideration of H. R. 3655—classification and grading of Foreign Service personnel.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

There will be a meeting of the Committee on Interstate and Foreign Commerce at 10 a. m. Tuesday, February 14, 1939. Business to be considered: Continuation of hearing on H. R. 2531—transportation bill. A representative of the American Trucking Association will be the witness.

COMMITTEE ON IMMIGRATION AND NATURALIZATION

There will be a meeting of the Committee on Immigration and Naturalization in room 446, House Office Building, Wednesday, February 15, 1939, for the public consideration of bills H. R. 805 and H. R. 2846.

COMMITTEE ON MERCHANT MARINE AND FISHERIES

The Committee on Merchant Marine and Fisheries will hold a public hearing in room 219, House Office Building, Washington, D. C., at 10 a. m. Tuesday, February 21, 1939, on the bill (H. R. 3576) to make effective the provisions of the Officers' Competency Certificates Convention, 1936.

It is contemplated that the hearing on Tuesday, February 21, 1939, on H. R. 3576 will deal particularly with legislation necessary to make effective the provisions of the treaty and problems arising in connection with the provisions of the treaty.

The Committee on Merchant Marine and Fisheries will hold public hearings in room 219, House Office Building, Washington, D. C., at 10 a. m., on the bills and dates listed below:

Tuesday, March 14, 1939:

H. R. 180, H. R. 202, construction of a Nicaraguan Canal; H. R. 201, additional facilities for Panama Canal; H. R. 2667, construction of a Mexican canal.

Tuesday, March 21, 1939:

H. R. 137, H. R. 980, H. R. 1674, relating to annuities for Panama Canal construction force.

Thursday, March 23, 1939:

H. R. 139, H. R. 141, H. R. 142, H. R. 1819, miscellaneous Panama Canal bills.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

407. A letter from the Chairman of the Securities and Exchange Commission, transmitting chapter VII of the Commission's report on its study of investment trusts and investment companies, made pursuant to section 30 of the Public Utility Holding Company Act of 1935 (H. Doc. No. 70); to the Committee on Interstate and Foreign Commerce and ordered to be printed.

408. A letter from the Secretary of Agriculture, transmitting approval for congressional action on a proposed bill to change the Under Secretary of Agriculture to the First Secretary of Agriculture; to the Committee on Agriculture.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII,

Mr. SABATH: Committee on Rules. House Resolution 88. Resolution providing for the consideration of H. R. 3791; without amendment (Rept. No. 35). Referred to the House Calendar.

Mr. COCHRAN: Committee on Expenditures in the Executive Departments. H. R. 3646. A bill to authorize certain officers and employees to administer oaths to expense accounts; without amendment (Rept. No. 36). Referred to the House Calendar.

Mr. RANDOLPH: Committee on the District of Columbia. H. R. 3948. A bill to authorize the Commissioners of the District of Columbia to regulate the hours during which streets, alleys, etc., shall be lighted; without amendment (Rept. No. 37). Referred to the Committee of the Whole House on the state of the Union.

CHANGE OF REFERENCE

Under clause 2 of rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 384) for the relief of Herluf F. J. Ravn; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 736) conferring jurisdiction upon the Court of Claims of the United States to hear, consider, and render judgment on the claims of Joliet National Bank, of Joliet, Ill., and Commercial Trust & Savings Bank, of Joliet, Ill., arising out of loans to the Joliet Forge Co., of Joliet, Ill., for the providing of additional plant facilities and material for the construction of steel forgings during the World War; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 1181) for the relief of the heirs of George Washington Roberts; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 1539) granting an increase of pension to Harvey E. Rogers; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 1569) granting a pension to Samuel Allen; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 1624) for the relief of Joseph Hovey; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 1881) for the relief of Anne Boice; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 2258) for the relief of Elbert R. Miller; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 2264) for the relief of Evelyn Gurley-Kane; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 2326) granting a pension to Joseph H. Hulse; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 2342) granting a pension to Mary M. Diehl; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 2459) for the relief of Emil V. Lehmann; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 2475) for the relief of Mrs. George E. Richardson; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 2480) for the relief of the estate of John B. Brack; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 2520) granting a pension to Carl H. Ziebell; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 2574) relating to the payment of the remaining installments of the Government life insurance secured by Philip Hermann; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 2630) granting an increase of pension to J. O. Craig; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 3101) for the relief of David W. Morgan; Committee on Claims discharged, and referred to the Committee on Military Affairs.

A bill (H. R. 3166) for the relief of Elmer Eugene Derryberry; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 3204) for the relief of Lizzie Berry; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 3269) for the relief of Joseph Fund; Committee on Claims discharged, and referred to the Committee on War Claims.

A bill (H. R. 3718) for the relief of John J. Doherty; Committee on Claims discharged, and referred to the Committee on Indian Affairs.

A bill (H. R. 3898) granting a pension to Lewis I. Montgomery; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BARRY:

H. R. 3994. A bill to extend to custodial service employees employed by the Post Office Department certain benefits applicable to postal employees; to the Committee on the Post Office and Post Roads.

H. R. 3995. A bill to provide for the construction of two vessels for the Coast Guard designed for ice breaking and assistance work; to the Committee on Merchant Marine and Fisheries.

By Mr. BATES of Kentucky:

H. R. 3996. A bill to pension men who were engaged in, or connected with, the military service of the United States during the period of Indian wars and disturbances; to the Committee on Invalid Pensions.

By Mr. BOREN:

H. R. 3997. A bill to govern the apportionment of appointments under civil service; to the Committee on the Civil Service.

By Mr. HESS:

H. R. 3998. A bill to amend the United States Housing Act of 1937, and for other purposes; to the Committee on Banking and Currency.

By Mr. WHELCHER:

H. R. 3999. A bill to amend section 1001, title X, of the Social Security Act, to include needy individuals who are permanently crippled; to the Committee on Ways and Means.

By Mr. LEA:

H. R. 4000. A bill to amend section 601 (c) of the Revenue Act of 1932, as amended, to provide for an excise tax on egg products; to the Committee on Ways and Means.

By Mr. RANDOLPH:

H. R. 4001. A bill to amend the act entitled "An act to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real-estate brokers in the District of Columbia," approved February 4, 1913; to the Committee on the District of Columbia.

H. R. 4002. A bill to establish a system of automatic salary increases within the Federal service; to the Committee on the Civil Service.

H. R. 4003. A bill to regulate the hours of duty in the Federal service, and for other purposes; to the Committee on the Civil Service.

By Mr. VOORHIS of California:

H. R. 4004. A bill to grant permanent and total disability ratings to veterans suffering from severe industrial inadaptability as a result of war service; to the Committee on World War Veterans' Legislation.

By Mr. WHITE of Idaho:

H. R. 4005. A bill to authorize the Secretary of the Interior to permit the payment of the costs of repairs, resurfacing, improvement, and enlargement of the Arrowrock Dam in 20 annual installments, and for other purposes; to the Committee on Irrigation and Reclamation.

By Mr. BOLAND:

H. R. 4006. A bill to diminish un-American activities by deporting aliens guilty of them; to the Committee on Immigration and Naturalization.

By Mr. HORTON:

H. R. 4007. A bill to equalize the wages of Works Progress Administration workers; to the Committee on Appropriations.

By Mr. KING:

H. R. 4008. A bill to authorize an exchange of lands between the War Department and the Department of Labor; to the Committee on Military Affairs.

By Mr. McARDLE:

H. R. 4009. A bill to affect the rates of interest on, and the terms of, obligations of home owners held by the Home Owners' Loan Corporation; to the Committee on Banking and Currency.

By Mr. KELLER:

H. R. 4010. A bill to authorize the Archivist of the United States to cause to be edited and published a collection of documents relative to the ratification of the Constitution of the United States, and for other purposes; to the Committee on the Library.

By Mr. STEAGALL:

H. R. 4011. A bill to continue the functions of the Commodity Credit Corporation and the Export-Import Bank of Washington, and for other purposes; to the Committee on Banking and Currency.

H. R. 4012. A bill to continue the functions of the Reconstruction Finance Corporation, and for other purposes; to the Committee on Banking and Currency.

By Mr. HAWKS:

H. R. 4013. A bill to regulate interstate and foreign commerce in agricultural products; to prevent unfair competition; to provide for the orderly marketing of such products; to promote the general welfare by assuring an abundant and permanent supply of such products by securing to the producers a minimum price of not less than cost of production; and for other purposes; to the Committee on Agriculture.

By Mr. GORE:

H. R. 4014. A bill to reinter the bodies of Mary McDonough Johnson Daugherty and Sarah Phillips McCardle Whitesides near the body of former President Andrew Johnson; to the Committee on Military Affairs.

By Mr. CHURCH:

H. J. Res. 161. Joint resolution authorizing the President of the United States to call an international conference to formulate measures for the reduction and limitation of armaments; to the Committee on Foreign Affairs.

By Mr. SIROVICH:

H. J. Res. 162. Joint resolution to establish a Distinguished Service Medal in Arts and Sciences and a Distinguished Service Medal in Public Service and prescribing the conditions of the awards thereof, and providing for new duties for the Commissioner of Patents and the Registrar of Copyrights; to the Committee on Patents.

By Mr. SHEPPARD:

H. Res. 89. Resolution to provide for an investigation by the Committee on the District of Columbia as to the advisability of eliminating the present class A liquor stores and the establishment of District of Columbia owned stores; to the Committee on Rules.

MEMORIALS

Under clause 3 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: Memorial of the Legislature of the State of New Mexico, memorializing the President and the Congress of the United States to consider their resolution (H. J. Memorial 1) with reference to any proposed extension in the State of New Mexico of the Navajo Indian Reservation; to the Committee on Indian Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H. R. 4015. A bill to provide for the carrying out of the award of the National War Labor Board of April 11, 1919, and the decision of the Secretary of War of date November 30, 1920, in favor of certain employees of the Minneapolis Steel & Machinery Co., Minneapolis, Minn.; of the St. Paul Foundry Co., St. Paul, Minn.; of the American Hoist & Derrick Co., St. Paul, Minn.; and of the Twin City Forge & Foundry Co., Stillwater, Minn.; to the Committee on Claims.

By Mr. BARRY:

H. R. 4016. A bill for the relief of George A. Voss; to the Committee on Naval Affairs.

By Mr. BLAND:

H. R. 4017. A bill for the relief of John P. Shorter; to the Committee on Claims.

By Mr. BRADLEY of Michigan:

H. R. 4018. A bill granting a pension to Delta Teachout; to the Committee on Invalid Pensions.

By Mr. BROWN of Ohio:

H. R. 4019. A bill for the relief of William L. Oden; to the Committee on Claims.

By Mr. BUCKLEY of New York:

H. R. 4020. A bill for the relief of George A. Wade; to the Committee on Claims.

By Mr. CULKIN:

H. R. 4021. A bill granting an increase of pension to Harriett Van Felt; to the Committee on Invalid Pensions.

By Mr. GARTNER:

H. R. 4022. A bill for the relief of Harry Sokol; to the Committee on Claims.

By Mr. KING:

H. R. 4023. A bill to correct the naval record of Edward Leslie Sanderson; to the Committee on Naval Affairs.

By Mr. LESINSKI:

H. R. 4024. A bill for the relief of Nicolai Demchuk; to the Committee on Immigration and Naturalization.

H. R. 4025. A bill for the relief of John Barbu; to the Committee on Immigration and Naturalization.

By Mr. MAAS:

H. R. 4026. A bill to provide for the carrying out of the award of the National War Labor Board of April 11, 1919, and the decision of the Secretary of War of date November 30, 1920, in favor of certain employees of the Minneapolis Steel & Machinery Co., Minneapolis, Minn.; of the St. Paul Foundry Co., St. Paul, Minn.; of the American Hoist & Derrick Co., St. Paul, Minn.; and of the Twin City Forge & Foundry Co., Stillwater, Minn.; to the Committee on Claims.

By Mr. PIERCE of New York:

H. R. 4027. A bill for the relief of Mary Fortune; to the Committee on Claims.

H. R. 4028. A bill for the relief of Agnes and Mary J. Weatherup; to the Committee on Claims.

By Mr. REECE of Tennessee:

H. R. 4029. A bill granting a pension to Ike F. Kearney; to the Committee on World War Veterans' Legislation.

By Mr. ROMJUE:

H. R. 4030. A bill granting a pension to Leah Kesterson; to the Committee on Invalid Pensions.

By Mr. ROUTZOHN:

H. R. 4031. A bill to confer jurisdiction on the Court of Claims to hear, determine, and render judgment upon the claim or claims of the Recording & Computing Machines Co., of Dayton, Ohio; to the Committee on Claims.

By Mr. SCHAFER of Wisconsin:

H. R. 4032. A bill for the relief of Garry C. Wollenschlager; to the Committee on Military Affairs.

By Mr. TERRY:

H. R. 4033. A bill for the relief of Albert R. Rinke; to the Committee on Claims.

By Mr. YOUNGDAHL:

H. R. 4034. A bill to provide for the carrying out of the award of the National War Labor Board of April 11, 1919, and the decision of the Secretary of War of date November 30, 1920, in favor of certain employees of the Minneapolis Steel & Machinery Co., Minneapolis, Minn.; of the St. Paul

Foundry Co., St. Paul, Minn.; of the American Hoist & Derrick Co., St. Paul, Minn.; and of the Twin City Forge & Foundry Co., Stillwater, Minn.; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1004. By Mr. ANDERSON of California: Assembly Joint Resolution No. 20 relative to Federal aid to State or Territorial veterans' homes; to the Committee on Appropriations.

1005. By Mr. GRAHAM: Petition of the College Hill Union of the Woman's Christian Temperance Union of Beaver Falls, Pa., urging the passage of legislation which will prevent the advertising of alcoholic liquors by press and radio; to the Committee on Interstate and Foreign Commerce.

1006. By Mr. HOOK: Petition of John Kangos and 25 other businessmen, demanding continuation of the Works Progress Administration program and opposing any reduction of Works Progress Administration funds until workers are sure of permanent employment from private employers, claiming reduction will result in widespread suffering; to the Committee on Appropriations.

1007. By Mr. HOUSTON: Petition of certain citizens of Newton, Kans., believing the American people are now making it possible for belligerent nations to carry on warfare against innocent civilians, urge the Congress, in accordance with the spirit of Christ, to take every means, direct or indirect, to bring an end to the destruction of innocent people; to the Committee on Foreign Affairs.

1008. By Mr. SCHIFFLER: Petition of the executive committee of the Department of West Virginia, the American Legion, urging that veterans be hospitalized at the facility in which their claim folders are located or which facility would control their claims folder in case they had a claim, etc.; to the Committee on Claims.

1009. By Mr. LUTHER A. JOHNSON: Petition of Joe Kaspar, John Kubin, and Frank A. Mikula and Mrs. John Babek and Mrs. F. A. Mikula, of Ennis, Tex.; and Paul K. Tomcheson and F. L. Niver, of Bremond, Tex., favoring the proposals adopted in the recent Washington conference of the representatives from the cotton States for parity income price on cotton, Government-loan cotton for relief purposes, and as replacement to producers planting less than allotment; to the Committee on Agriculture.

1010. By Mr. MARTIN J. KENNEDY: Resolution of the Ancient Order of Hibernians in America, Division 29, New York County, to prevent the lifting of the present embargo on shipment of arms to either side in Spain; to the Committee on Foreign Affairs.

1011. Also resolution of the Ancient Order of Hibernians in America, Division 29, New York County, for the continuation of the Dies committee investigating un-American activities; to the Committee on Rules.

1012. By Mr. KEOGH: Petition of 122 residents of the Ninth Congressional District, Brooklyn, N. Y., concerning the Patman anti-chain-store bill (H. R. 1); to the Committee on Ways and Means.

1013. By Mr. LEAVY: Petition of 40 residents of Spokane, Wash., and vicinity, deploring the frightful slaughter and savagery wrought upon civilians of China in the oriental conflict, alleging that Japan's greatest source of war materials is the United States, and urging the enactment of legislation to halt the traffic in arms until hostilities cease; to the Committee on Foreign Affairs.

1014. By Mr. LORD: Petition of the Council of the City of Binghamton, N. Y., approving the proposed division of responsibility of cost in the construction, maintenance, and operation of municipal airports and of the suggested assumption of responsibility by the Federal Government in accordance with the plan of the United States Conference of Mayors, and urging the Congress of the United States to cause to be introduced and to be enacted into law the aforesaid assumption of Federal responsibility in the construction, installation of equipment, and operation of municipal airports thereby more equitably distributing the cost thereof between the Federal

Government and the municipalities maintaining municipal airports; to the Committee on the Public Lands.

1015. Also, petition of the Woman's Christian Temperance Union of Bainbridge, N. Y., asking the Congress of the United States to pass legislation which will prevent as far as is possible by Federal law, the advertising of alcoholic beverages by press and radio; to the Committee on Interstate and Foreign Commerce.

1016. By Mr. MYERS: Petition of John J. Layden and 24 other citizens of Philadelphia, Pa., urging the adherence by the United States to the neutrality acts passed by the Congress on August 31, 1935, and May 1, 1937, respectively; to the Committee on Foreign Affairs.

1017. By Mrs. NORTON: Petition of the Guild of Catholic Lawyers of the Archdiocese of Newark, N. J., opposing any repeal by the Congress of the United States either of the act of August 31, 1935, or the extension thereof by the act of May 1, 1937; to the Committee on Foreign Affairs.

1018. Also, petition of 92 students of the College of St. Elizabeth, Convent Station, N. J., petitioning the Congress, for as long as we shall adhere to the general policy of neutrality as enunciated in the act of August 31, 1935, to retain on our statute books the further and corollary principle enunciated in the act of May 1, 1937, extending the original act to include civil as well as international conflicts; to the Committee on Foreign Affairs.

1019. By Mr. PFEIFER: Petition of 120 residents of the Third Congressional District, Brooklyn, N. Y., concerning the Patman anti-chain-store bill (H. R. 1); to the Committee on Ways and Means.

1020. By Mr. SECCOMBE: Resolution submitted by D. B. Smith, president, and Beulah Shrier, secretary, and passed by Townsend Club No. 1, of New Philadelphia, Ohio, memorializing the Congress of the United States to adopt the Townsend national recovery plan bill (H. R. 2); to the Committee on Ways and Means.

1021. By Mr. SMITH of West Virginia: Resolution of the Kanawha Coal Operators' Association, Charleston, W. Va., favoring an increase in the import duty tax on foreign oil; to the Committee on Ways and Means.

1022. By Mr. TOLAN: Petition of the consolidated Townsend clubs of the Seventh Congressional District of California that the Congress give special consideration to the reduction of national unemployment, curtailment of excessive taxes, reduction of indebtedness, return business to normal, reduce the high crime rate, provide annuities commensurate with a decent standard of living for citizens over 60 years, adopting a system of pay-as-you-go pensions, and enact House bill 2; to the Committee on Ways and Means.

1023. By Mr. VAN ZANDT: Petition of Charles R. Rowan Post, No. 228, American Legion, Altoona, Pa., urging continuance of the Dies committee, the deportation of Harry Bridges and all unnaturalized foreigners, and the impeachment of any persons in Government service interfering with the carrying out of principles of good Americanism; to the Committee on Immigration and Naturalization.

1024. Also, petition of the Pennsylvania Cooperative Potato Growers' Association, Inc., Bellefonte, Pa., condemning the Patman anti-chain-store tax bill (H. R. 1) as a dangerous measure; to the Committee on Ways and Means.

1025. Also, petition of Washington Camp, No. 889, Patriotic Order Sons of America, Howard, Pa., urging strict observance of present immigration laws and excluding all immigrants until unemployed American citizens are restored to gainful pursuits; to the Committee on Immigration and Naturalization.

1026. By the SPEAKER: Petition of Mary Goforth, Auburn, Calif., urging consideration of the resolution with reference to House bill No. 2, the General Welfare Act; to the Committee on Ways and Means.

1027. Also, petition of the city of Akron, Ohio, petitioning consideration of their resolution with reference to taxation; to the Committee on Ways and Means.

1028. Also, petition of William Lee Mann, New York City, petitioning consideration of the resolution with reference to obtaining the fingerprints of all native-born citizens and all

aliens and foreign-born parties; to the Committee on Immigration and Naturalization.

1029. Also, petition of the Ohio General Welfare Association, Columbus, Ohio, petitioning consideration of their resolution with reference to House bill No. 11, the general welfare bill; to the Committee on Ways and Means.

SENATE

MONDAY, FEBRUARY 13, 1939

The Chaplain, Rev. Z. Barney T. Phillips, D. D., offered the following prayer:

Almighty God, Lord of heaven and earth, who hast in all the ages shown forth Thy power and mercy in the protection of all who put their sure trust in Thee: We humbly beseech Thee to look upon this Nation of ours, so richly endowed, and, lest in our pride we no longer stoop to learn Thy ways, send us the spirit of a child, a new generation springing from the uncorrupted source of things, and lead us back to a sane mind, a sincere heart, and a simple life.

A shadow, sorrow-laden, has fallen on the world and a voice that plead for justice, mercy, and a common brotherhood is forever hushed; yet may the afterglow of his radiant life light the way for all the races of mankind, that holiness may return to earth as king and nobleness walk our ways again until we come into our heritage with Thee. We ask it in the name of Jesus Christ our Lord. Amen.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of Thursday, February 9, 1939, was dispensed with, and the Journal was approved.

CALL OF THE ROLL

Mr. MINTON. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Donahay	King	Russell
Andrews	Downey	La Follette	Schwartz
Ashurst	Ellender	Lee	Schwellenbach
Austin	Frazier	Lewis	Sheppard
Bailey	George	Logan	Shipstead
Bankhead	Gerry	Lucas	Smith
Barbour	Gibson	Lundeen	Stewart
Barkley	Gillette	McKellar	Taft
Bilbo	Glass	McNary	Thomas, Okla.
Bone	Green	Maloney	Thomas, Utah
Bridges	Guffey	Mead	Townsend
Brown	Gurney	Miller	Truman
Bulow	Hale	Minton	Tydings
Burke	Harrison	Murray	Vandenberg
Byrd	Hatch	Neely	Van Nuys
Byrnes	Hayden	Norris	Wagner
Capper	Herring	Nye	Walsh
Caraway	Hill	Overton	Wheeler
Clark, Idaho	Holman	Pepper	White
Clark, Mo.	Holt	Pittman	Wiley
Connally	Hughes	Radcliffe	
Danaher	Johnson, Calif.	Reed	
Davis	Johnson, Colo.	Reynolds	

Mr. MINTON. I announce that the Senator from New Mexico [Mr. CHAVEZ] is unavoidably detained from the Senate.

The Senator from Nevada [Mr. McCARRAN] and the Senator from New Jersey [Mr. SMATHERS] are detained on important public business.

The Senator from Wyoming [Mr. O'MAHONEY] is detained from the Senate because of illness.

Mr. McNARY. I announce that the Senator from Idaho [Mr. BORAH] is absent because of illness.

The VICE PRESIDENT. Eighty-nine Senators have answered to their names. A quorum is present.

FREDERICK STEIWER, FORMER SENATOR FROM OREGON

The VICE PRESIDENT laid before the Senate the following concurrent resolution of the Legislature of the State of Oregon, which was ordered to lie on the table:

Senate Concurrent Resolution 6

Whereas Frederick Steiwer has passed from his life of usefulness as a public servant and citizen; and

Whereas he has been a prominent Member of the United States Senate, as well as of this State senate, wherein his influence was